

# **National Indian Gaming Commission**

**2008 – 2012**

## **Government Performance Results Act Report**

*For Discussion Purposes Only*

# National Indian Gaming Commission

## GPRA Report

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## **Letter from Chairman Hogen:**

It is my pleasure to present the National Indian Gaming Commission's (NIGC) first *Performance and Accountability Report*. This report presents our accomplishments, goals, plans and financial forecast for Fiscal Years (FY) 2008 – 2012.

This is a unique and important time for the NIGC. Indian gaming has proved to be the most effective economic development tool that has ever been utilized in Indian country, notwithstanding generations of attempts by other means, and the expenditure of untold taxpayers' dollars on other ventures. While gaming will only work effectively where there is a market for gaming, and while the extent of gaming's success will be proportionate to the size of that market and the competition therein, it has proved to be a remarkable success in many parts of Indian country. In some cases, it has provided Tribes with a source of wealth. In other instances, the primary benefit is that the gaming operations provide employment opportunities where none existed before. The Indian gaming industry is growing annually at double-digit rates, increasing in complexity and sophistication, and producing positive impacts in many areas of Indian society.

The NIGC is an independent regulatory agency of the United States established pursuant to the Indian Gaming Regulatory Act (IGRA) of 1988. The Commission was created to fulfill the mandates of IGRA in fostering economic development of Indian Tribes by pursuing our mission, which is to ensure the integrity of gaming activities on Indian lands and to be certain that Tribes are the primary beneficiaries of their gaming activities. In this dynamic environment, the NIGC applies four strategic goals to achieve its mission — actively and visibly regulate, share information, provide technical assistance and training, and develop organization excellence.

The NIGC monitors gaming activity, inspects gaming premises, conducts background investigations, audits and reviews financial records of gaming operations, undertakes training and, when necessary, takes enforcement actions.

Our mission is accomplished by:

- Promulgating regulations to guide the operation of gaming activities;
- Directly regulating certain aspects of such gaming activities and coordinating regulation with tribal and other regulatory agencies through the review and approval of tribal gaming ordinances and agreements;
- Reviewing backgrounds of individuals and entities to ensure the suitability of those seeking to engage or invest in such gaming;

- Maintaining oversight and reviewing the conduct of gaming operations and financial performances; and
- Taking enforcement actions for violations of IGRA, the regulations of the Commission, and tribal gaming ordinances, including imposition of appropriate sanctions on those committing such violations.

As it fulfills these responsibilities, the Commission is particularly vigilant for any indications of corrupting influences such as those posed by organized criminal elements known to be attracted to cash-intensive industries like gaming.

The Commission is mindful of the trust relationship the United States bears to the Indian nations it serves and of the importance of prompt and efficient administration of IGRA to foster the economic development so urgently needed by Indian Tribes. In all phases of its regulatory performance, the Commission and its staff observe due process rights of those who come before it and extend to all individuals the courtesy they are entitled to expect from their government. The Commission strives to be responsive to Tribes seeking guidance as they enter the dynamic gaming industry, monitors trends in tribal government gaming, and reports its findings to the Tribes, the Federal family and other constituencies.

This report highlights our accomplishments in high priority areas as well as challenges facing the NIGC. The Performance Section of this report lists the key outcomes for each of our strategic goals. More information on the NIGC along with materials relating to all aspects of our activities can be found on our website at [www.nigc.gov](http://www.nigc.gov).

Without strong management practices, the NIGC could not accomplish its mission. We place a high priority on sound financial management, information technology, human resources, and administrative support services. We are working to provide a high quality organization that will make our work flow smoothly and efficiently.

Chief among the priorities is to implement good financial management practices to ensure that our resources are well-managed and wisely used. Beginning with FY 2009, the NIGC's financial report will be audited by independent accountants. This audit will include tests of internal controls and compliance with laws and regulations, and will be conducted in accordance with Government Auditing Standards and the Office of Management and Budget (OMB) Bulletin No. 06-03.

Our un-audited financial reports for 2008 are included and reflect the accounting and fiscal policies adopted by the Commission. The Reports Consolidation Act of 2000 requires an assessment of the completeness and reliability of the program and financial data contained in this report. Based on criteria issued by OMB, I conclude that the data are complete and reliable.

I believe that the performance and financial information described in this report will create confidence in the NIGC as we work to fulfill our mission. I look forward to working with all interested parties and the Commission staff in the coming year to continue providing high-quality service and to maintaining the trust of tribal governments, tribal regulators, Indian gaming industry, and the public in the job we are doing.

**Philip N. Hogen**, Chairman

For Discussion Purposes Only

**Commissioners:**

National Indian Gaming Commission

The Commission is comprised of a Chairman and two Commissioners, each of whom serves on a full-time basis for a three-year term or until their successors are appointed. The Chairman is appointed by the President and must be confirmed by the Senate. The Secretary of the Interior appoints the other two Commissioners. Under the IGRA, at least two of the three Commissioners must be enrolled members of a federally recognized Indian tribe, and no more than two members may be of the same political party.



**Philip N. Hogen, Chairman**  
National Indian Gaming Commission

President George W. Bush appointed Philip Hogen to Chair the NIGC in the fall of 2002. Prior to his appointment as Chair of NIGC, Hogen served as the Associate Solicitor for the Division of Indian Affairs at the Department of the Interior.

From 1995 to 1999 Hogen served as an Associate Member and the Vice Chairman of NIGC. From 1981 to 1991 Hogen was the United States Attorney for the District of South Dakota, and while serving as U.S. Attorney, Hogen served as the Chairman of the Indian Affairs Subcommittee of the Attorney General's Advisory Committee of United States Attorneys at the Department of Justice.

Mr. Hogen is a member of the Oglala Sioux Tribe of the Pine Ridge Indian Reservation in South Dakota and makes his home in the Black Hills. He earned his law degree at the University of South Dakota (1970), and his undergraduate degree at Augustana College in Sioux Falls, SD (1967).



**Cloyce V. "Chuck" Choney**  
NIGC Vice Chairman

From 1969 to 1975, Cloyce V. "Chuck" Choney served in the U.S. Army, where he attained the rank of Captain. Choney served a tour of duty in Vietnam where he was twice wounded and received several awards for valor.

From 1976 to 2001, Choney served as a Special Agent for the Federal Bureau of Investigation (FBI). During this time he handled a variety of cases involving civil rights, fraud, white collar crimes, and bank robbery investigations. He also served as the Chairman of the FBI's Native American/Alaskan People Advisory Committee. Choney received several FBI commendations that include the Director's Award for Excellence in 2001, and the FBI's Shield of Bravery for rescue efforts during the Oklahoma City bombing. Choney retired from the FBI in September 2001.

In December, 2002, Choney was appointed as an Associate Commissioner of the National Indian Gaming Commission by then Secretary of the Interior Gale Norton. In 2006 he was re-appointed as an Associate Commissioner by Secretary of the Interior, Dirk Kempthorne. He serves as the Commission's Vice-Chairman.

Choney is an enrolled member of the Comanche Nation of Oklahoma and is also half Kiowa. He is also a member of the Kiowa Gourd Clan, the Kiowa Black Leggings.



**Norman DesRosiers**  
NIGC Commissioner

Norman DesRosiers was appointed NIGC Commissioner for a 3 year period by Secretary of the Interior, Dirk Kempthorne in January of 2007.

Between 1998 and late 2006, DesRosiers served as Commissioner for the Viejas Tribal Gaming Commission. He was Executive Director of the San Carlos Apache Tribal Gaming Commission from 1994-1998 as well as serving as Vice President of the Arizona Tribal Gaming Regulators Alliance.

DesRosiers is a Member and former Secretary/Treasurer of the San Carlos Tribal Bar Association. In 1993-94, he was an Inspector and training supervisor at Fort McDowell Tribal Gaming Commission.

He is a former member of the National Indian Gaming Association's faculty for Tribal Gaming Commissioner Certification Training; Former Chairman and Vice Chairman of the National Tribal Gaming Commissioners/Regulators Organization; and is the past Indian Gaming Committee Chairman of the North American Gaming Regulators Association (NAGRA).

DesRosiers has authored numerous nationally published papers and is an Associate Member of the International Masters of Gaming Law. He obtained his B.A. Degree in Law and Justice from Central Washington State University and served 10 years in law enforcement.

## Role of the Commission

### The Indian Gaming Regulatory Act (IGRA) of 1988

Congress took up the issue of tribal gaming and conducted a series of hearings, ultimately culminating in the passage of IGRA in 1988. Embodied in IGRA is a compromise between state and tribal interests. The states were given a role in determining the scope and extent of tribal gaming by requiring tribal-state compacts for Class III gaming. However, tribal regulatory authority over Class II gaming without state intervention was preserved in full.

IGRA set up the jurisdictional framework governing Indian gaming. IGRA establishes three classes of games with a different regulatory scheme for each. Class I gaming is defined as traditional and social Indian gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments.

Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and if played in the same location as bingo, pull-tabs, punchboards, tip jars, instant bingo, and other games similar to bingo. Class II gaming also includes non-banked card games, that is, games played exclusively against other players rather than against the house or a player acting as a bank. IGRA specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of Class II games. Tribes retain their authority to conduct, license and regulate Class II gaming so long as the state in which the Tribe is located permits such gaming for any purpose and the tribal government adopts a gaming ordinance approved by the National Indian Gaming Commission (NIGC). Tribal governments are responsible for regulating Class II gaming with NIGC oversight.

Class III is defined as all forms of gaming that are neither Class I nor II. Games commonly played in casinos - such as slot machines, blackjack, craps, and roulette - fall in the Class III category as well as wagering games and electronic facsimiles of any games of chance. Generally, Class III gaming often is referred to as full-scale casino-style gaming. As a compromise among tribal, state and federal interests, IGRA restricts tribal authority to conduct Class III gaming. Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the particular form of Class III gaming that the tribe wants to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance approved by the Chairman of the NIGC.

The regulatory scheme for Class III gaming is more complex than a casual

reading of the statute might suggest. Although Congress clearly intended states to address regulatory issues in tribal-state compacts, it was not mandatory in IGRA, and many states accordingly rely upon continued federal regulatory oversight by the NIGC and Congress to address regulatory concerns regarding Class III tribal gaming under IGRA, including approval of management contracts and tribal ordinances. Thus, the extent of a state's participation in the regulation of Class III gaming varies from state to state. In addition, IGRA expressly assigned a number of specific regulatory functions to the NIGC. Congress also vested the Commission with broad authority to issue regulations to implement the purpose of IGRA. Accordingly, the Commission plays a key role in the oversight and regulation of both Class II and III gaming.

### Regulatory Role

The Commission's mission is to regulate gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; ensuring that Indian tribes are the primary beneficiaries of gaming revenues; and assuring that gaming is conducted fairly and honestly by both operators and players. To affect these goals, the Commission is authorized to conduct investigations, undertake enforcement actions, including the issuance of notices of violation; assessment of civil fines, and issuance of closure orders; review and approve management contracts; and issue such regulations as are necessary to meet its responsibilities under the Act.

The Act grants broad authority to the Commission and provides authority to the Chairman to:

- issue temporary closure orders;
- levy civil fines, of up to \$25,000 per violation per day, against a tribe, management contractor, or individual operator for violation of the Act, the regulations or a tribal gaming ordinance ;
- approve tribal gaming ordinances;
- approve gaming management contracts; and
- appoint and supervise staff

The Commission as a whole is empowered to:

- monitor gaming activities;
- inspect gaming premises;
- conduct background investigations;
- inspect records relating to gaming;

- approve the NIGC annual budget;
- adopt regulations for the assessment and collection of civil fines;
- adopt a schedule of annual fees; and
- issue permanent closure orders.

The Commission serves as an appellate body. Affected parties may appeal decisions of the Chairman to the full Commission.

In carrying out these responsibilities, the Commission also:

- provides education, training and technical assistance regarding applicable regulatory requirements;
- assists tribes with background investigations and fingerprint processing;
- receives and processes appeals;
- conducts formal and informal hearings;
- consults with Indian tribes, states and the regulated community;
- defends against lawsuits challenging the Commission's actions;
- issues advice and guidance through bulletins, advisory opinions and other publications; and
- audits and other evaluative services.

### Operations

The Commission became operational in 1993. It is comprised of a Chairman and two Commissioners, each of whom are appointed to a three-year term. The Commission establishes policy, oversees the agency, and is responsible for carrying out the formal duties assigned it by the Act. The Chairman appoints a Chief of Staff to manage the day-to-day activities of the Commission and a General Counsel to handle its legal affairs.

The Commission provides federal oversight to approximately 425 tribally owned, operated, or licensed gaming establishments operating in 28 states. The Commission maintains its headquarters in Washington, D.C., maintains five regional offices, and four satellite offices. The Commission is divided into five separate divisions with a combined staff of approximately 109 full-time employees. Forty-nine members of the Commission staff are assigned to headquarters in Washington, D.C. with the remaining 60 assigned among five

regional offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Flowood, Mississippi. The Commission plans to open field offices in Michigan, New York, New Mexico, and Northern California.

The Commission established its regional structure to increase effectiveness and improve the level and quality of services it provides. The regional offices are vital to carrying out the statutory responsibilities of the Commission and securing industry compliance with the Act. The Commission's efficiency and effectiveness have improved as a result of locating auditors and investigators closer to tribal gaming facilities. Regular visits enable better oversight of tribal compliance with regulations and allows for timely intervention where warranted. In addition to auditing and investigative activities, the field staff provides technical assistance, education, and training to promote a better understanding of gaming controls within the regulated industry, and to enhance cooperation and compliance.

### Organizational Structure

The NIGC organizational structure supports its 2008-2012 strategic goals. The NIGC is headed by the Chairman, the Vice Chairman and an Associate Commissioner. The Commissioners are supported by two main branches, the Office of the Chief of Staff and the Office of General Counsel.

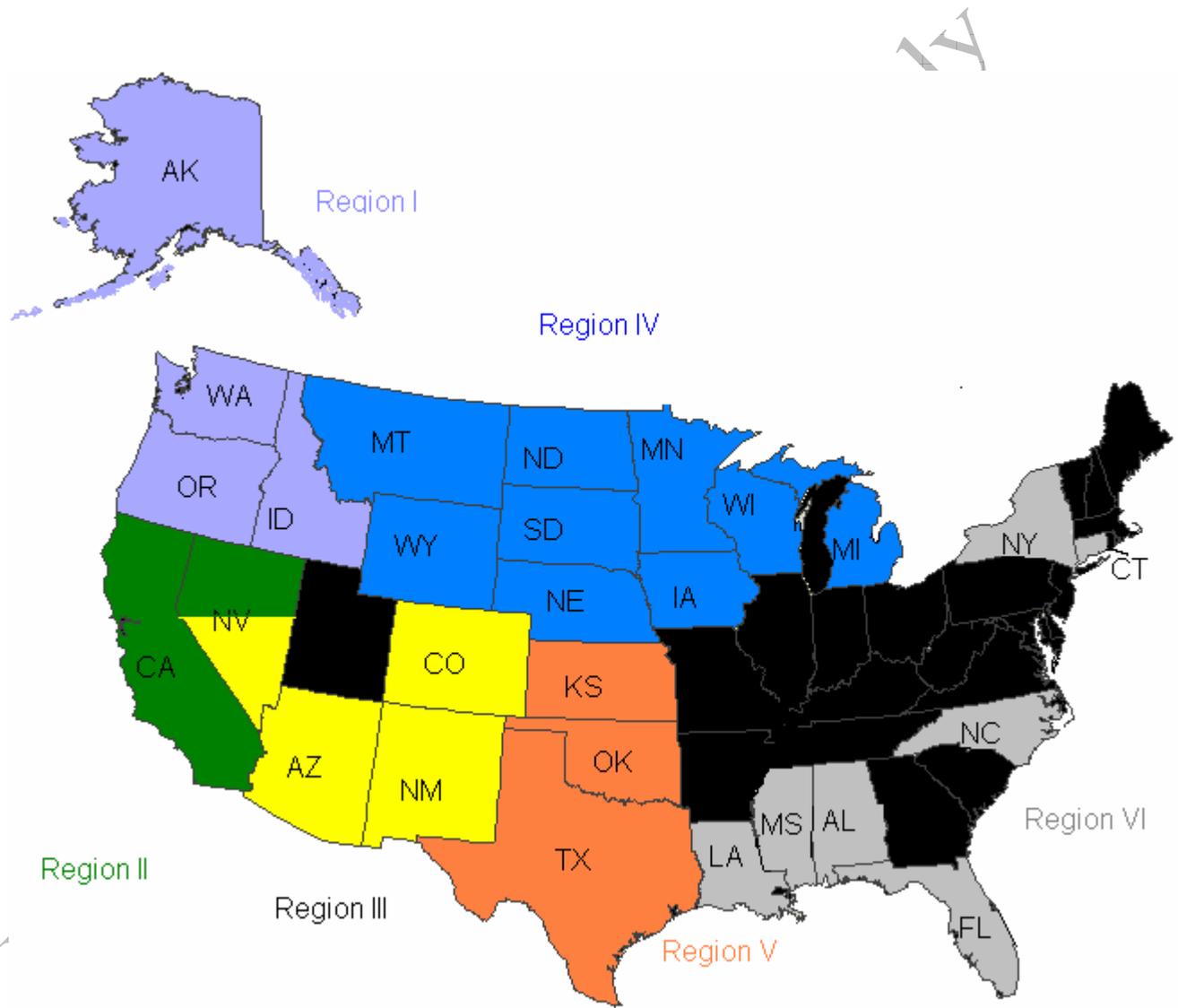
**Office of the Chief of Staff** implements the policies of the Commission and is responsible for the direction, supervision, and evaluation of the work of all Commission employees outside the Office of the General Counsel. It is divided into 5 divisions which include Evaluation and Background, Compliance and Enforcement, Audit and Chief Financial Officer, Administration, and Training.

The ***Evaluation and Background Division***, formerly known as Contracts, works with all interested parties, including Tribal officials, management contractors, attorneys, accountants, and Tribal Gaming Regulatory Authorities to ensure that all proposed management contracts meet the requirements established by IGRA. The Division also conducts required background investigations to ensure the satisfaction of related suitability criteria as it relates to management contractors. The Division also has primary responsibility for evaluating and ensuring compliance with the National Environmental Policy Act as it relates to projects proposed by the terms of proposed management contracts. The Division also manages the submission and distribution of results from the processing of finger print identification and background. The NIGC submits finger prints to the FBI through an MOU between the agencies. In turn the NIGC has agreements with various Tribes for submission and processing.

The ***Compliance and Enforcement Division***, formerly known as Enforcement, serves as the Commission's main tool in monitoring tribal compliance with all applicable laws and regulations. Over the planning period it is projected that the Division will have 8 regional offices and 5 satellite offices.

Region I – Portland OR	Satellite – Bellingham WA
Region II – Sacramento CA	Satellite – Temecula CA Satellite – Shasta CA
Region III – Phoenix AZ	
Region IV – Rapid City SD	Satellite – Albuquerque NM
Region V – St. Paul MN	Satellite – Michigan
Region VI – Tulsa, OK	
Region VII – Flowood, MS	
Region VIII – Albany, NY	

**NIGC Current Regional Offices:**



**NIGC Projected Regional Offices:**



The primary focus of the ***Audit Division*** is to monitor compliance with the Commission's Minimum Internal Control Standards (MICS). This important set of regulations establishes uniform minimum internal control standards that are effective and have proven essential in protecting the integrity of Indian gaming. The Commission has added to the duties of the Division the responsibilities of conducting internal audits of the Commission's activities and supervising the preparation of audited financial statements.

A new ***Training Division*** will be established in FY 2008 to provide both external and internal training. It will support implementation of PL 109-221 and will assist in attaining the strategic goal of organizational excellence. Externally, the Training Division, among other responsibilities, will coordinate numerous course offerings presented in the Training Catalog (See Appendix A). It will work with tribal governments, gaming regulators, law enforcement, members of the state and federal families, and other constituencies to identify needed areas of training. Internally, the Training Division will ensure that employees have the skills necessary to perform their work effectively, efficiently, and knowledgeably. It will make certain supervisors receive training on key management practices, policies, and federal regulations. Together, the external and internal training will strengthen NIGC's ability to support and further the goals of the Commission.

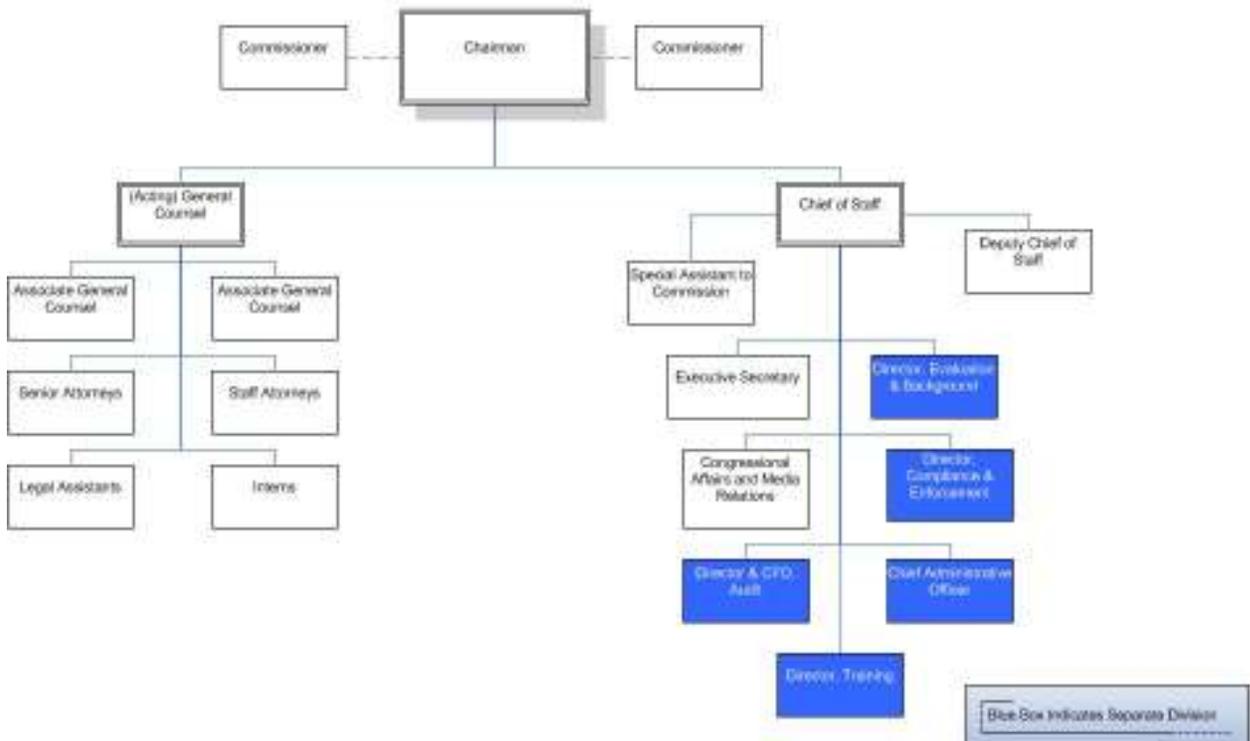
The ***Administration Division*** provides administrative, technical and support services to the Commission. The Division provides support and essential services to all organizational components of the Commission including its regional and satellite offices. All daily office support functions, including personnel management, procurement activities, travel and information technology support are provided by this Division. The Division also is responsible for accounting of fees, network management and internet services and records management.

The ***Office of the General Counsel***, under the leadership of the General Counsel, provides legal advice and counsel to the Commission on all matters relating to IGRA and Commission compliance with all applicable laws and regulations. It represents the Chairman in all enforcement actions and, as needed, coordinates with the U.S. Department of Justice to implement enforcement actions of the Chairman. OGC also plays an important role in handling appeals before the full Commission, and where Commission action results in litigation, the office works directly with the Department of Justice attorneys handling the case.

OGC also manages the day-to-day legal affairs of the Commission, providing counsel and legal support to each division. The office reviews tribal gaming ordinances and potential management contracts, provides advisory opinions on the appropriate classification of games played in

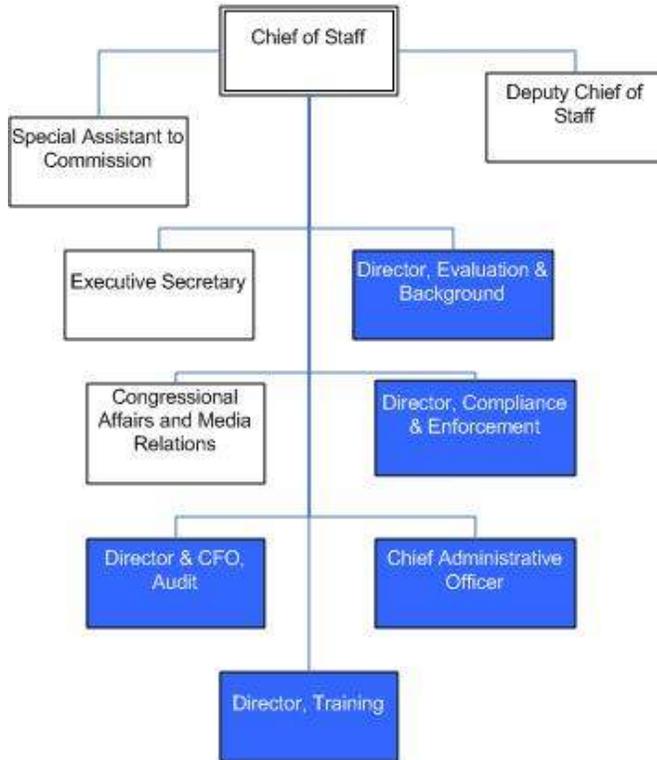
Tribal gaming facilities, and provides opinions on Indian Land issues, as required. The office also coordinates opinions and other specific matters with the Department of Interior's Solicitor's Office and other agencies as required.

### Organization Structure of the National Indian Gaming Commission



For Draft

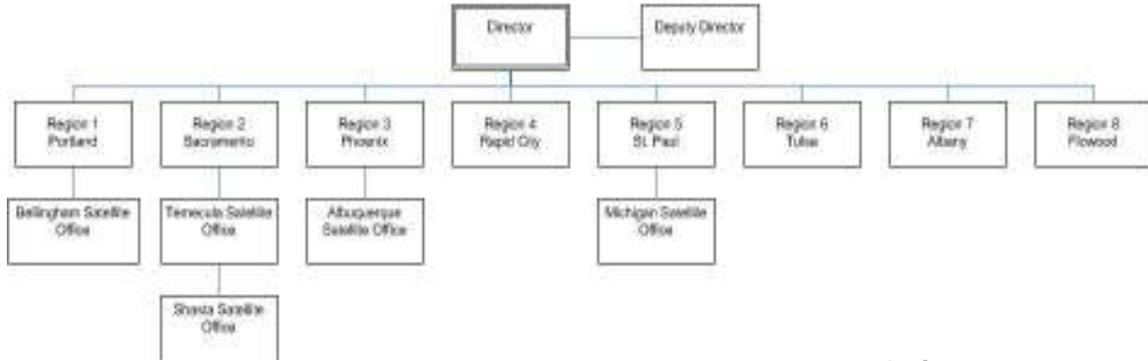
# Chief of Staff



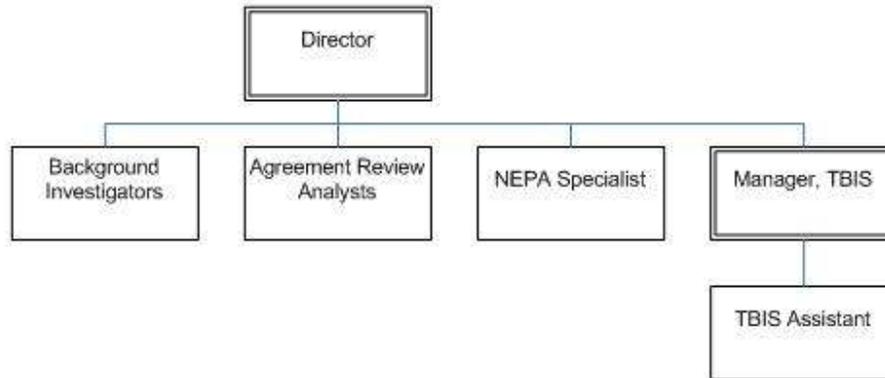
Blue Box Indicates Separate Division

For Draft

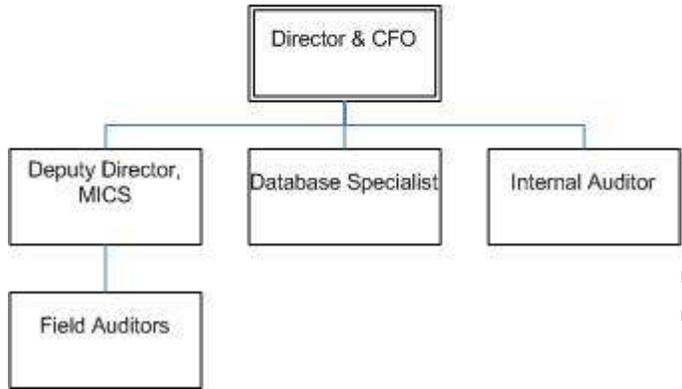
## Enforcement & Compliance Division



## Evaluation & Background Division



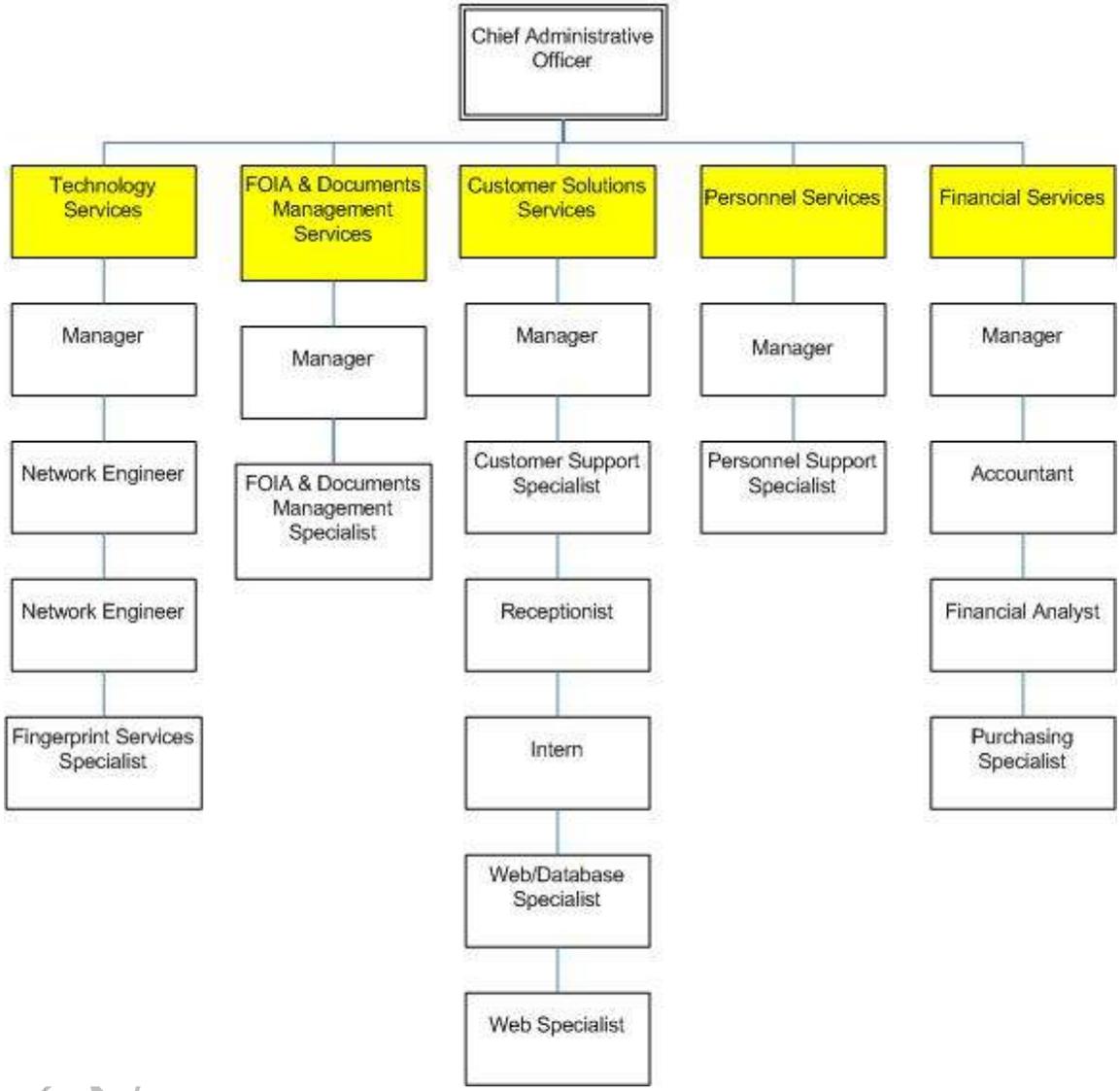
# Audit Division



# Training Division

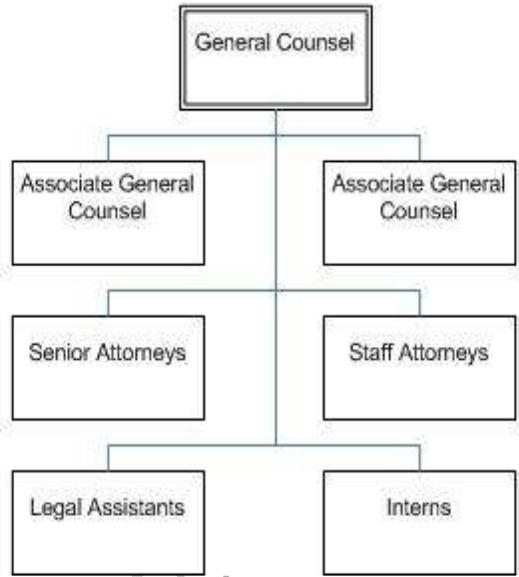


# Administration Division



FC

# Office of General Counsel



For Discussion

### Government to Government Relationship

The NIGC adheres to and is guided by the Government-to-Government Tribal Consultation Policy that was published in the C.F.R. on March 24, 2004. The NIGC consultation policy follows the fundamental principles of Federal Indian policy and promotes government-to-government relationships, consultations and mutual cooperation among Indian Tribes, the NIGC, other involved federal departments and agencies, and state and local governments, regarding the operation and regulation of Indian gaming under IGRA. The entire policy can be found in Appendix B.

To the fullest extent practicable and permitted by law, the NIGC is committed to regular, timely and meaningful government-to-government consultation with Indian Tribes, whenever it undertakes the formation and implementation of new or revised federal regulatory policies, procedures, programs, requirements, restrictions, or standards for Indian gaming, either by means of administration or legislative initiative, which may substantially affect or impact the operation or regulation of gaming on Indian lands by Tribes under IGRA. In 2006, NIGC consulted with 139 Tribes on general matters of interest and specifically on the proposed class II classification standards. Over 673 tribal representatives participated in those meetings.

In keeping with its consultation policy, the NIGC also provides technical assistance, consults with authorized intertribal advisory committees and addresses congressional concerns regarding Indian gaming.

### **Challenges and Opportunities:**

#### Colorado River Indian Tribes Case

The model envisioned by IGRA has worked for 18 years producing \$25 billion in gaming revenue in 2006. The NIGC has the distinct advantage of seeing Indian gaming from a broad vantage, enabling it to spot trends and react to negatives in ways that Tribes and states are not usually equipped to do. Further, the NIGC provides a clearinghouse for vital information sharing between the Tribes, the federal family and the states and other stakeholders, such as law enforcement and public safety agencies.

It is the combination of the three regulatory levels - Tribal, federal and state - that provide the balanced approach that has helped Indian gaming to succeed and thrive.

In early 2001, NIGC attempted to audit a Class II and III gaming operation owned by the Colorado River Indian Tribes (CRIT). NIGC was looking to

check compliance with minimum internal control standards (“MICS”) 25 C.F.R. Part 542.

The MICS provide, in considerable detail, minimum standards that Tribes must follow when conducting Class II and III gaming. They are intended to embody accepted practices of the gaming industry. To choose a few of many possible examples, the MICS prescribe methods for removing money from gaming machines and gaming tables and counting it so as best to prevent theft; they prescribe methods for the storage and use of playing cards so as best to prevent fraud and cheating; and they prescribe minimum resolutions and floor area coverage for casino surveillance cameras. More than this, though, the MICS attempt to embody overall controls that reasonably assure gaming transactions are appropriately authorized, recognized and recorded. They thereby assure the integrity of games and safeguard tribal assets, and they do so without displacing internal control requirements that Tribes and states have negotiated into their compacts. In the event of a direct conflict between the terms of a compact and the MICS, the MICS specifically state that it is the compact terms that prevail and bind the operation.

In any event, CRIT refused to give NIGC access to its Class III gaming records. The NIGC Chairman responded with a notice of violation and civil fine. CRIT appealed to the full Commission, which upheld the Chairman’s actions. On appeal, the District Court for the District of Columbia granted summary judgment in favor of CRIT, finding that IGRA does not confer upon NIGC the authority to issue or enforce MICS for Class III gaming. The District Court found that while IGRA grants NIGC authority over certain aspects of Class III gaming, MICS are not among them.

On October 20, 2006, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court. Although some read the CRIT decision to say that the NIGC has no authority over Class III gaming, the actual holding was narrow: Congress did not give the NIGC the authority to promulgate MICS for Class III gaming.

#### MICS & Class III - Background

As NIGC recently reported, in 2006, tribal gaming generated over \$25 billion in gross gaming revenues. While precise numbers are not required in this connection, NIGC and those who closely watch the Indian gaming industry estimate that nearly 90% of this revenue is generated by compacted, Class III gaming -- far and away the dominant means by which Tribes generate gaming revenues.

It is the NIGC’s belief that in IGRA, Congress intended that the federal entity established to provide oversight of Indian gaming would have an

oversight role with respect to the dominant form of gaming in the industry, whether bingo in 1988 or Class III gaming now. If the NIGC's role with respect to its minimum internal control standards and Class III gaming is not clarified by the courts or legislation, most Tribes will continue to operate first-rate, well-regulated facilities, and their tribal gaming regulatory entities will perform effectively. Others likely will not.

When the NIGC came on the scene in October of 1988, it believed – and still believes – that its mission was to provide effective oversight of tribal gaming. IGRA states that it established the NIGC as an independent Federal regulatory authority over Indian gaming in order to address Congressional concerns about gaming and to advance IGRA's overriding purposes. These are to ensure that tribal gaming promotes tribal economic development, self-sufficiency and strong tribal governments; to shield gaming from organized crime and other corrupting influences; to ensure that the Tribes are the primary beneficiaries of their gaming operations; and to ensure that gaming is conducted fairly and honestly by both the tribal gaming operations and its customers. IGRA therefore authorizes the Chairman to penalize, by fine or closure, violations of the Act, the NIGC's own regulations, and approved tribal gaming ordinances.

Historically, casino gaming has been a target for illicit influences. Nevada's experience provides a classic case study of the evolution of strong, effective regulation. It was not until Nevada established a strong regulatory structure – independent from the ownership and operation of the casinos themselves – and developed techniques such as full-time surveillance of the gaming operations that most opportunities for criminal involvement were eliminated from the gaming industry there. All jurisdictions that have subsequently legalized gaming have looked to Nevada's experience to help guide their own regulation and oversight.

IGRA mandates that tribes may conduct Class III gaming only in states where such activity is permissible under state law and where the Tribes enter into compacts with states relating to this activity, which compacts require approval of the Secretary of the Interior. Compacts might include specific regulatory structures and give regulatory responsibility to the tribe, to the state, or to both in some combination of responsibilities. Since the passage of IGRA, 232 tribes have executed 249 Class III compacts with 22 states, and the allocation of regulatory responsibility, if addressed at all, is as diverse as the states and tribes that have negotiated them.

In 1987, the Supreme Court decided the *Cabazon* case and clarified that Tribes had the right to regulate gambling on their reservations, provided that the states wherein they were located did not criminally prohibit that activity. At that time, large-scale casino gaming operations existed only in Nevada and New Jersey. The IGRA was passed in 1988 and established the framework for the regulation of tribal gaming. That same year, Florida

became the first state in the southeastern United States, and the 25<sup>th</sup> overall, to create a state lottery. In 1989, South Dakota legalized gambling in the historic gold mining town of Deadwood, and Iowa and Illinois legalized riverboat gambling. The following year, Colorado legalized gambling in some of its old mining towns, and in 1991, Missouri legalized riverboat gambling. By that time, 32 states operated lotteries, while tribes ran 58 gaming operations. Thus, not just in Indian country but throughout the United States there was at that time a manifest social and political acceptance of gambling as a source of governmental revenue. What is also evident is that when IGRA was adopted in 1988, very few states had experience in the regulation of casino gaming.

When IGRA was enacted, those Tribes then engaged in gaming were primarily offering bingo. While there may have been an expectation in Congress that there would be a dramatic change in the games Tribes would offer, it is reasonable to assume many expected Tribal gaming to continue to be primarily Class II, or non-compact, gaming. After 1988, when Tribes began negotiating compacts for casinos with slot machines and banked card games, most of the states they negotiated with had little or no experience in regulating full-time casino operations. Michigan, for example, first compacted with Tribes in 1993 but didn't create its own Gaming Control Board or authorize commercial gaming until the end of 1996. Minnesota began compacting with tribes in 1990 and to this day has no non-Indian casinos within its borders.

A review of compacts approved since 1989 shows that the more recent compacts often address the mechanics of the oversight and regulation of the gaming quite specifically but those earlier compacts, some of which were entered into in perpetuity, do not. Further, the dispute resolution provisions to resolve issues identified by a State's oversight authority in the compacts often employ cumbersome and time-consuming procedures like mediation or arbitration that do not necessarily foster effective regulation. For example, in the 22 states with Class III gaming, 12 provide for some form of mediation or arbitration with varying degrees of specificity and enforceability.

Typically, the regulatory role a particular state undertakes in its compact was taken from and modeled on that state's experience with the regulation of its own legalized gaming at the time the compact was negotiated. Where such states develop effective regulatory programs, the need for NIGC oversight is greatly reduced. For example, in states where the tribal-state compacts call for regular state oversight, institute technical standards and testing protocols for gaming machines and establish internal control requirements, the NIGC's oversight role will be limited. This is the case, for example, in Arizona. Some states such as Michigan and North Dakota, however, have assumed a minimal regulatory role. In some cases, compacts have become little more than a revenue sharing agreement

between the state and the Tribe. Consequently, under circumstances where the states do not have a significant regulatory presence, the NIGC must be in place to undertake a broader range of oversight and enforcement activities.

### Class II Regulations

The NIGC is currently developing regulations to clarify the distinction between Class II technologic aids and Class III gaming devices. These Class II regulations would include classification standards, a definition of “electronic facsimile of games of chance,” technical standards, and minimum internal control standards.

Congress provided for two primary classes of gaming that tribes could use for economic development, and it is important for everyone, including the Tribes, the gaming equipment manufactures and the regulators, that the separation point between Class II and Class III gaming be clearly identifiable.

To date, that clarity has been lacking which has contributed to confusion, and expensive litigation and enforcement. Congress recognized that standards would be necessary, so they created the National Indian Gaming Commission (NIGC) and tasked it with providing the clarity the industry needs.

Congress intended there be a recognizable difference between Class II and Class III gaming. Tribes can conduct Class II gaming such as bingo and pull tabs using computers, electronic and technologic aids. However, when such equipment becomes “electronic facsimiles of games of chance, or slot machines of any kind,” it falls into Class III gaming, and a Tribal-State compact is required to conduct that activity.

Congress set forth the criteria for the game commonly known as bingo, perhaps the centerpiece of Class II gaming, and made clear that it was a game that was to be played by players competing against one another and that those players needed to participate in the play of the game.

The court decisions in the area of Class II gaming have focused on the players’ participation, and the fact that the “game” is outside the equipment it is played on—it’s still a game played among the players, not the player playing against the machine, or machines playing against other machines.

NIGC has focused on the “player participation” element. We plan to permit the equipment to aid the players when it comes to daubing their bingo numbers. However, if the equipment does everything for the player, it becomes a Class III electronic facsimile.

In allowing the machine to do too much, the activity crosses the line. If the “game” is electronically performed, and the players’ participation is irrelevant, or if a significant element of the game is not “outside” the equipment, it becomes Class III gaming.

The Commission asserts this is a fair, reasonable interpretation of IGRA, and still permits Tribes and gaming manufactures a wide range of creativity to design and operate fun, fast, profitable Class II games and equipment.

When this set of regulations are finalized the current confusion and uncertainty that surrounds the question of where Class II gaming ends and Class III gaming begins will be answered. With this footing, Tribes can be confident when they make major investments in equipment and systems. States will know the range of Class II gaming Tribes can employ in the absence of a compact, or if Tribes elect to supplement Class III gaming where limitations are imposed by compacts. It will be apparent to the U.S. Department of Justice that the “electronic and technological aids” permissible for Class II gaming under IGRA have a given and sanctioned meaning and that their enforcement of the Johnson Act, which prohibits gaming devices in Indian Country in the absence of Class III compacts, needn’t focus on this area. The illegal activity that the Johnson Act was enacted to address, of course, was unregulated gaming, which is far different from IGRA-sanctioned Class II gaming, which both Tribes and the NIGG regulate.

For Discussion Purposes Only

**The Economic Impact**  
**and**  
**Growth in Tribal Gaming Revenue**

*For Discussion Purposes Only*

### **The Economic Impact of Indian Gaming**

(from National Indian Gaming Association 2006 report, used with permission)

Nationwide, 225 Indian tribes in 28 states use Indian gaming to create new jobs, fund essential government services and rebuild communities. In 2006, tribal governments generated:

- \$25.7 Billion in gross revenue from Indian gaming (before wages, operating expenses, cost of goods and services, capital costs, etc. are paid).
- \$3.2 Billion in gross revenue from related hospitality and entertainment services (resorts, hotels, restaurants, golf, entertainment complexes, and travel centers, etc.).
- 670,000 jobs nationwide for American Indians and our neighbors (direct and indirect jobs created by Indian gaming economic multiplier effect) \$8.6 Billion in Federal taxes and revenue savings (including employer and employee social security taxes, income taxes, excise taxes, and savings on unemployment and welfare payments).
- \$2.4 Billion in state taxes, revenue sharing, and regulatory payments (including state income, sales and excise taxes, regulatory payments and revenue sharing pursuant to Tribal-State compacts).
- More than \$100 Million in payments to local governments.

One of the objectives of IGRA is to protect Indian gaming as a means to promote “tribal economic development, self-sufficiency, and strong tribal governments.”

It’s working. Across America, schools and hospitals are being built, dirt roads are being paved, and safe drinking water flows – sometimes for the first time. The benefits of Indian gaming are far reaching and extend in many directions. For example:

- The Mille Lacs Band of Ojibwe in Minnesota built two schools,
- The Oneida Nation of Wisconsin built its Turtle School to reflect Oneida culture
- The Mescalero Apache built a new K-12 school.
- The Salt River Pima-Maricopa Indian Community in Arizona built a dialysis clinic

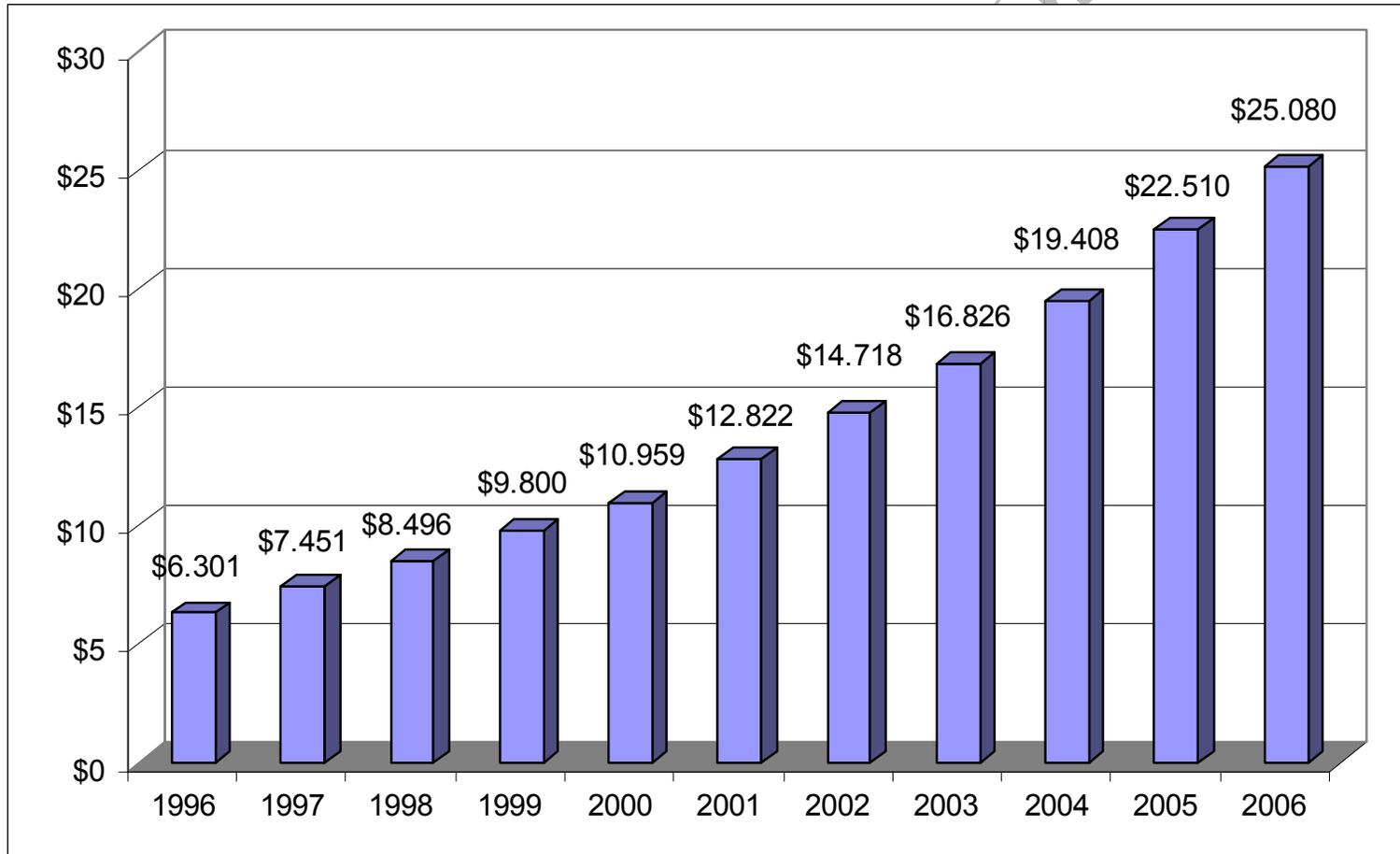
- The Choctaw Nation of Oklahoma built a hospital.
- The Pueblo of Santa Ana in New Mexico recently completed a water system to provide service to its communities
- The Yankton Sioux Tribe in South Dakota built a new water tower.

Tribal governments also use gaming revenues to provide essential services, such as education, health care, police and fire protection to all tribal members from toddlers in day care to grandmothers in elder care programs.

- The Tohono O'odham Nation in Arizona uses gaming revenue to fund police patrols of the border and 60 percent of its police budget is used to protect its 75 mile stretch of border with Mexico.
- The Pechanga Band of Luiseño Indians in California uses gaming revenue to fund its fire department which responds to frequent wildfires in nearby communities.
- The Rosebud Sioux Tribe in South Dakota uses gaming revenue to provide school clothes for students who need assistance at the start of each school year. Neighboring communities see the benefits of Indian gaming as well. Indian gaming creates hundreds of thousands of jobs for Indians and non-Indians.

By increasing state and local income tax revenues, Indian gaming provides funding for public schools, hospitals and roads in neighboring non-Indian communities.

### Growth of Tribal Gaming Revenue (in Billions)



### Tribal Gaming Growth 2006 and 2005

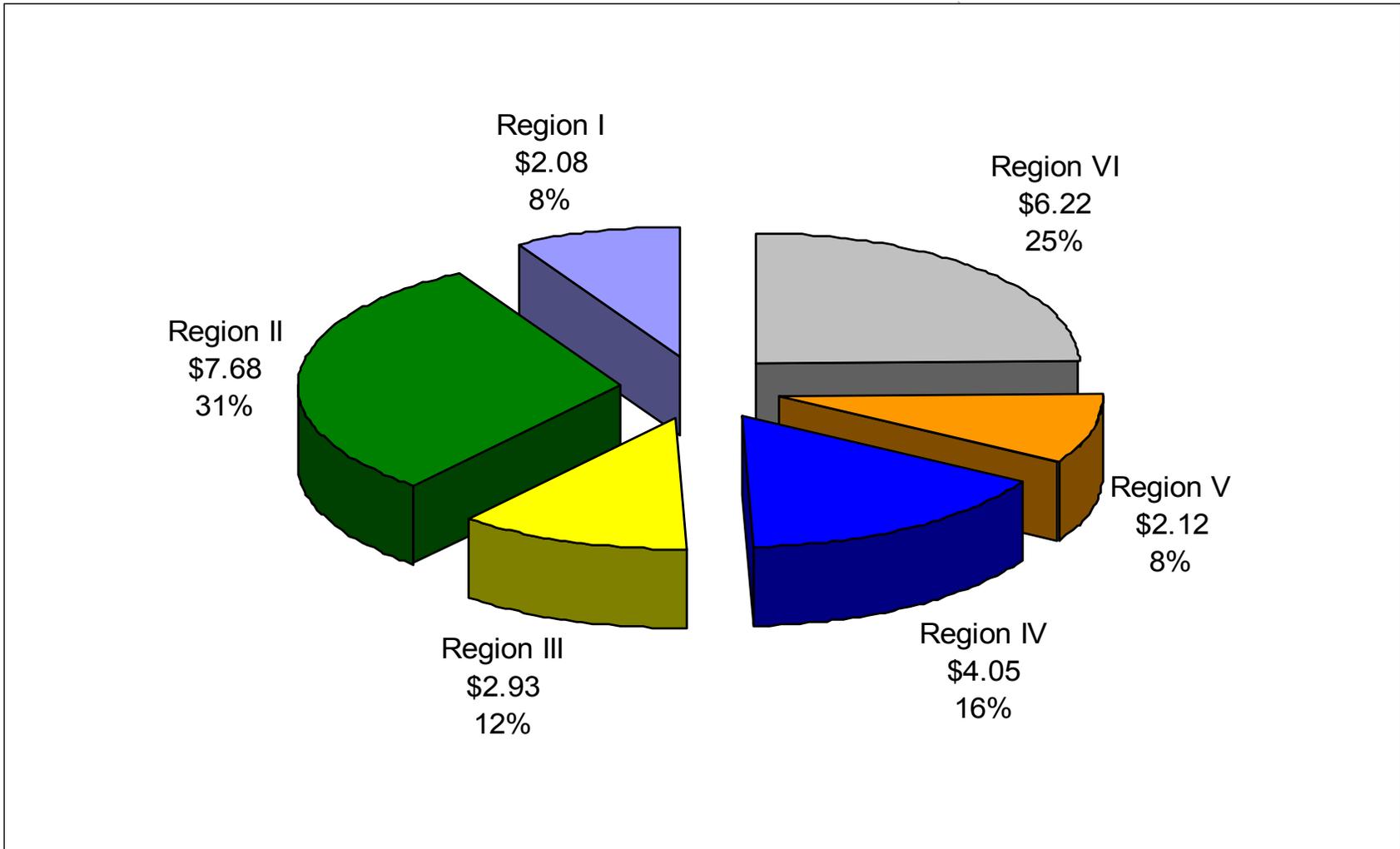
	Fiscal Year 2006		Fiscal Year 2005		Increase (decrease)		
	Number of Operations	Gaming Revenues	Number of Operations	Gaming Revenues	Number of Operations	Gaming Revenues	Revenue Percentage
Region I	45	2,080,337	49	1,829,276	(4)	251,061	13.7%
Region II	56	7,675,432	57	6,992,784	(1)	682,648	9.8%
Region III	45	2,927,711	48	2,529,128	(3)	398,583	15.8%
Region IV	117	4,050,080	118	3,983,635	(1)	66,445	1.7%
Region V	97	2,123,169	92	1,729,842	5	393,327	22.7%
Region VI	27	6,219,100	28	5,514,135	(1)	704,965	12.8%
Totals	387	25,075,829	392	22,578,800	-5	2,497,029	11.1%

Source: Compiled from gaming operation audited financial statements received by the NIGC through May 31, 2007.

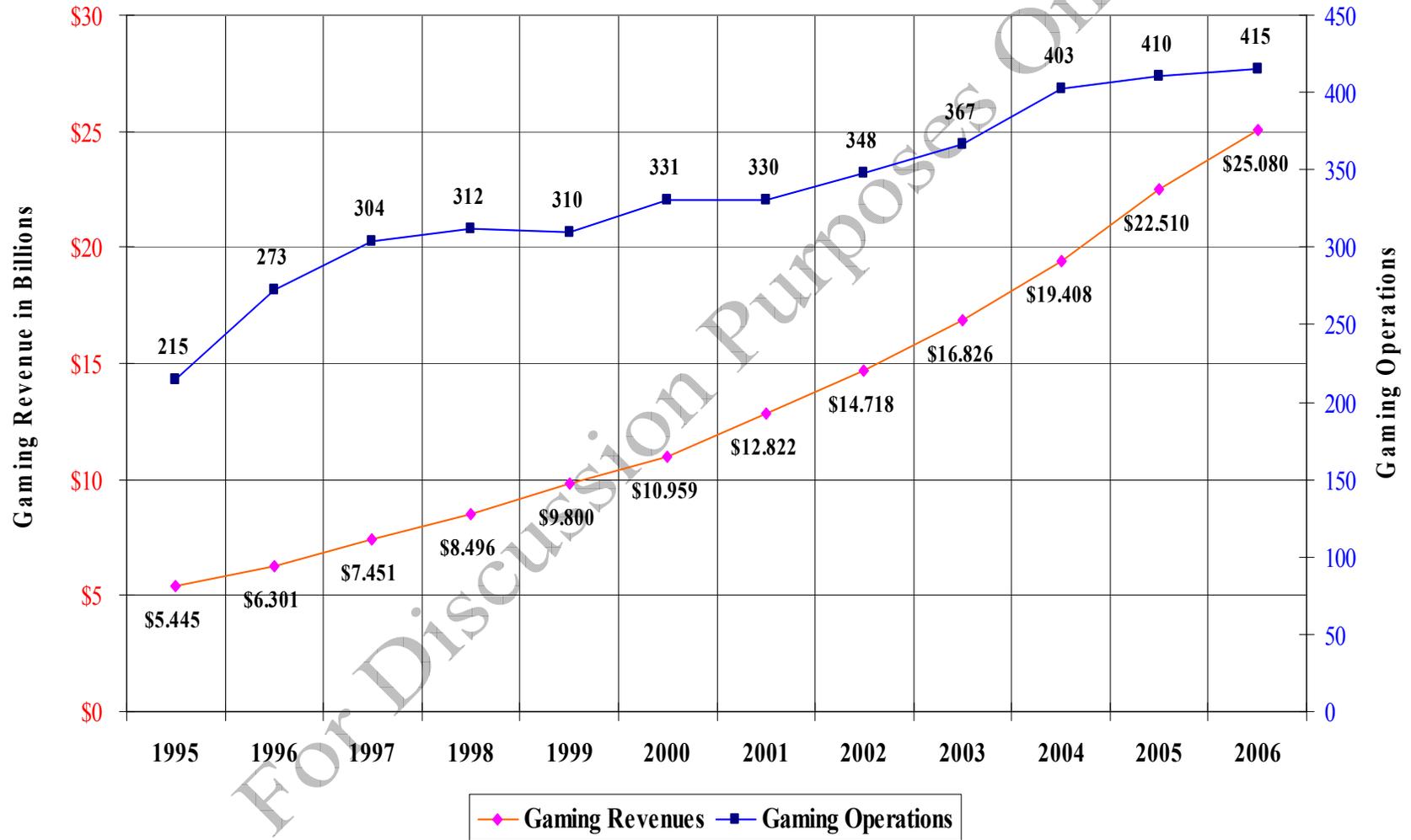
Region I	Alaska, Idaho, Oregon, and Washington.
Region II	California, and Northern Nevada
Region III	Arizona, Colorado, New Mexico, and Southern Nevada.
Region IV	Iowa, Michigan, Minnesota, Montana, North Dakota, Nebraska, South Dakota, Wisconsin and Wyoming.
Region V	Kansas, Oklahoma, and Texas.
Region VI	Alabama, Connecticut, Florida, Louisiana, Mississippi, North Carolina, and New York.

### 2006 Tribal Gaming Revenues by NIGC Regions (Billions)

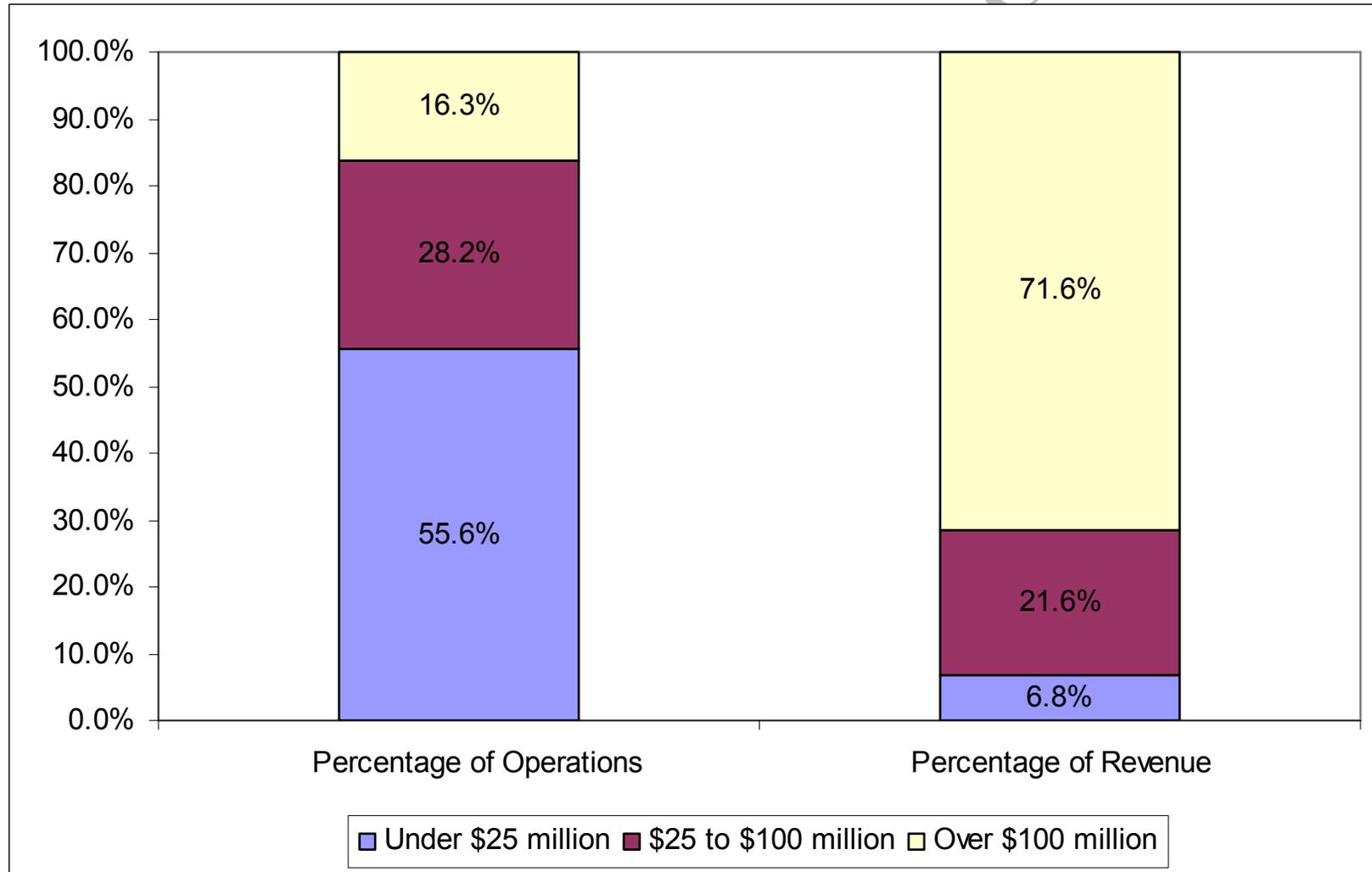
Only



### Growth in Tribal Gaming



### 2006 Tribal Gaming Revenue Percentage of Operations and Revenue by \$ Ranges



### NIGC Region I



	Total Gaming Revenues	Number of Gaming Operations
2006	\$2,080,337,000	45
2005	\$1,829,276,000	49

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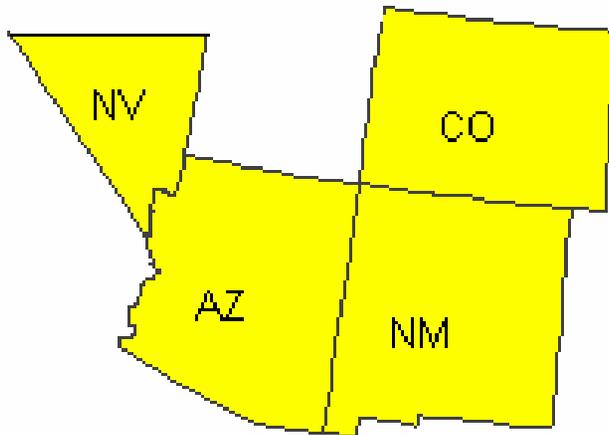
### NIGC Region II



	Total Gaming Revenues	Number of Gaming Operations
2006	\$7,675,432,000	56
2005	\$6,992,784,000	57

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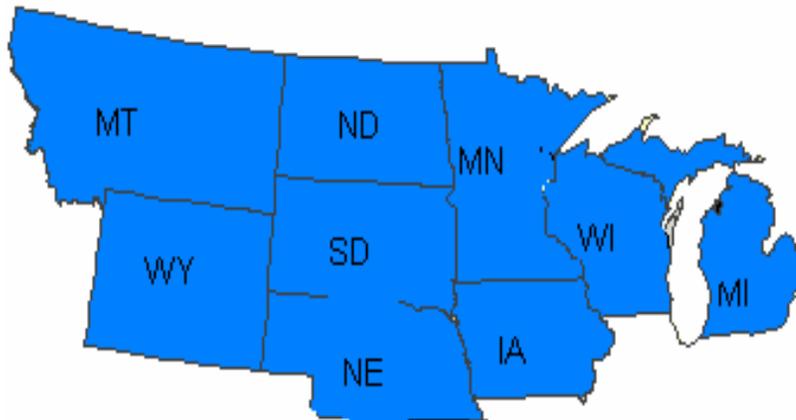
### NIGC Region III



	<b>Total Gaming Revenues</b>	<b>Number of Gaming Operations</b>
<b>2006</b>	<b>\$2,927,711,000</b>	<b>45</b>
<b>2005</b>	<b>\$2,529,128,000</b>	<b>48</b>

### NIGC Region IV

	Total Gaming Revenues	Number of Gaming Operations
2006	\$4,050,080,000	117
2005	\$3,983,635,000	118

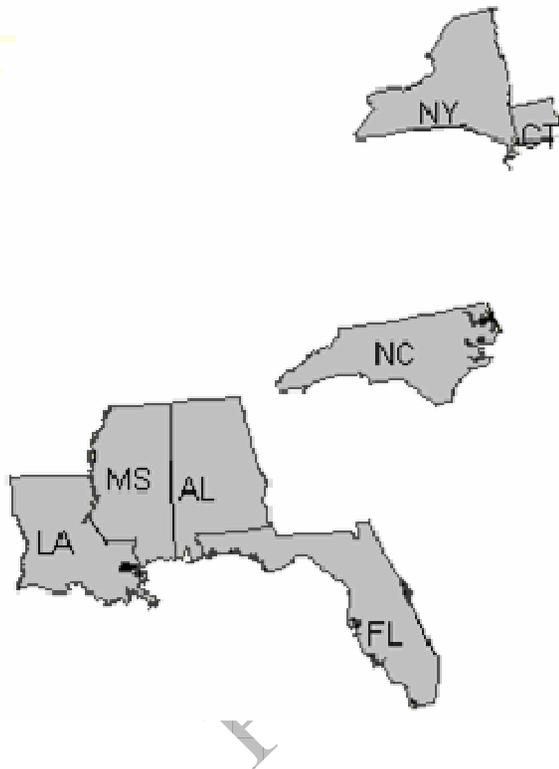


### NIGC Region V



	Total Gaming Revenues	Number of Gaming Operations
2006	\$2,123,169,000	97
2005	\$1,729,842,000	92

### NIGC Region VI



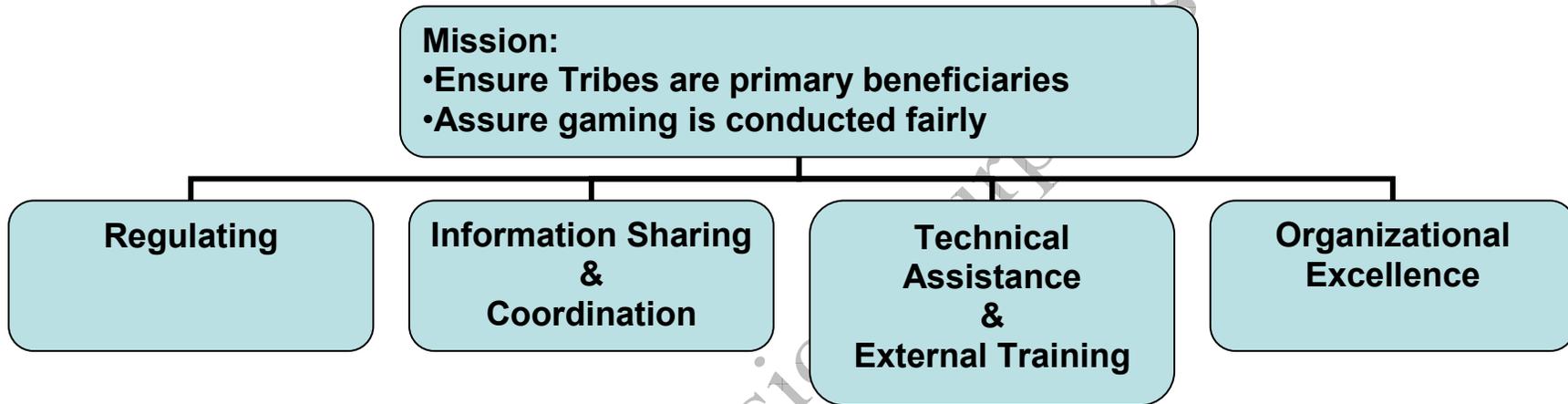
	Total Gaming Revenues	Number of Gaming Operations
2006	\$6,219,100,000	27
2005	\$5,414,135,000	28

## **GPRA Strategy Charts**

*For Discussion Purposes Only*

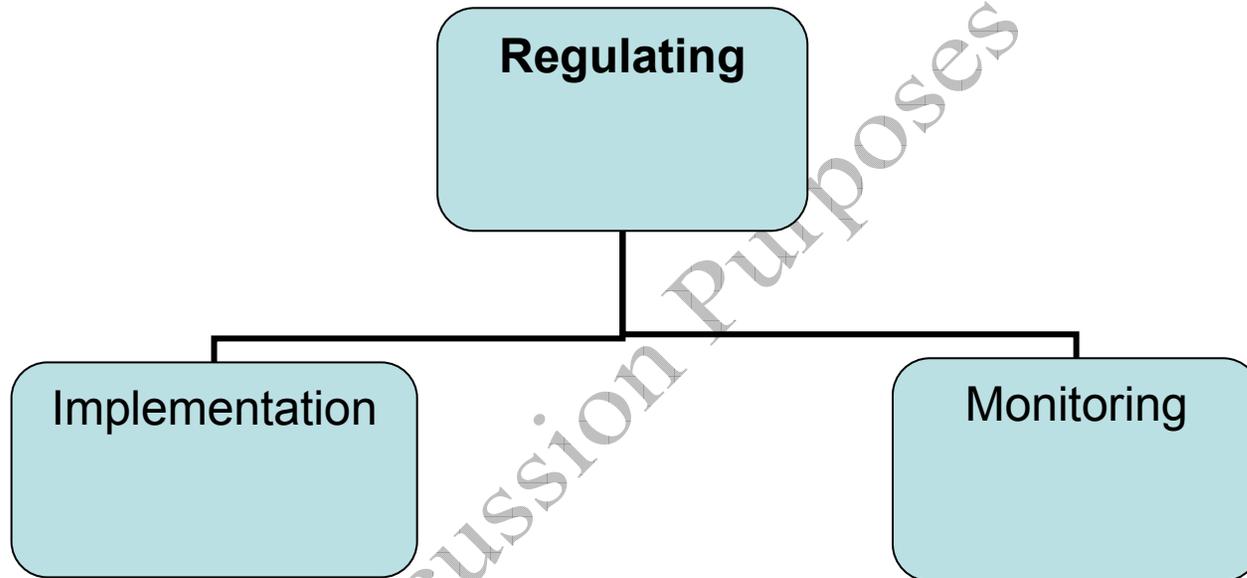
# National Indian Gaming Commission

## Strategy Chart



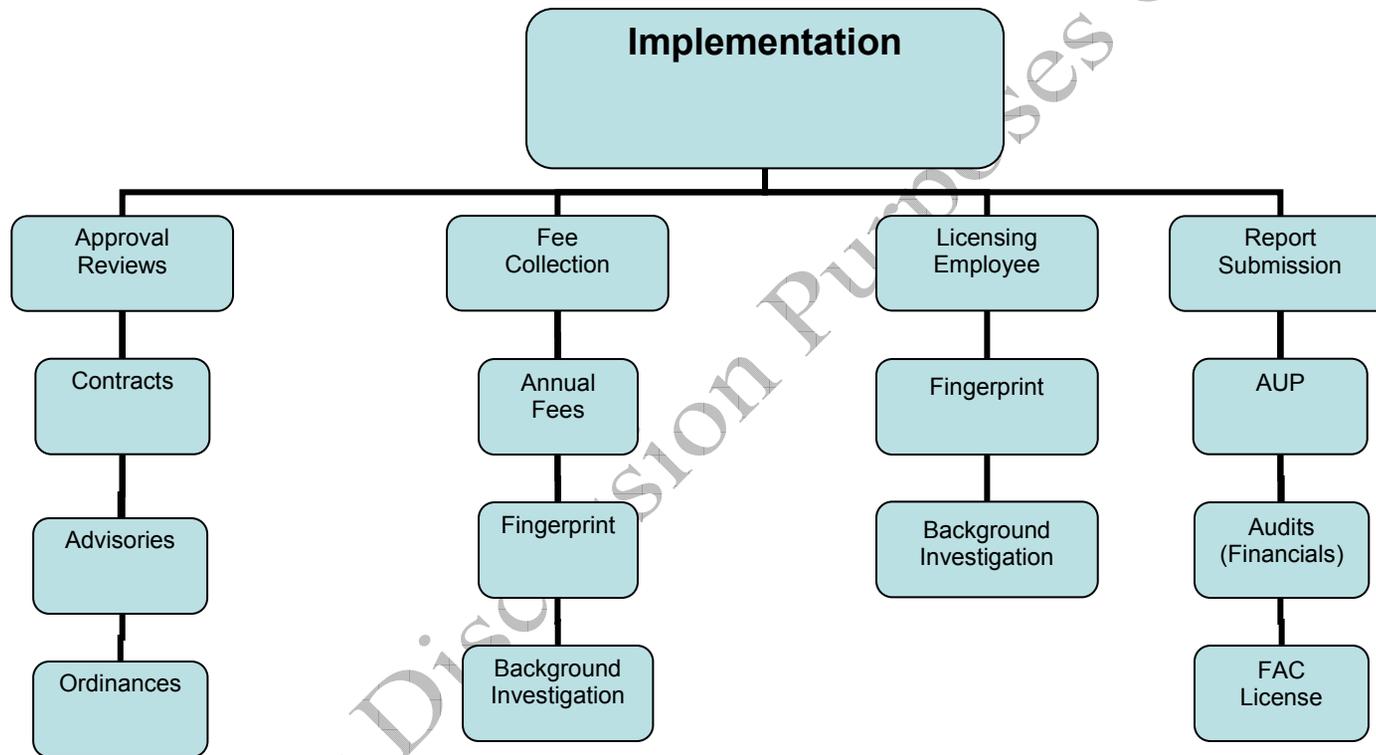
# National Indian Gaming Commission

## Strategy Chart

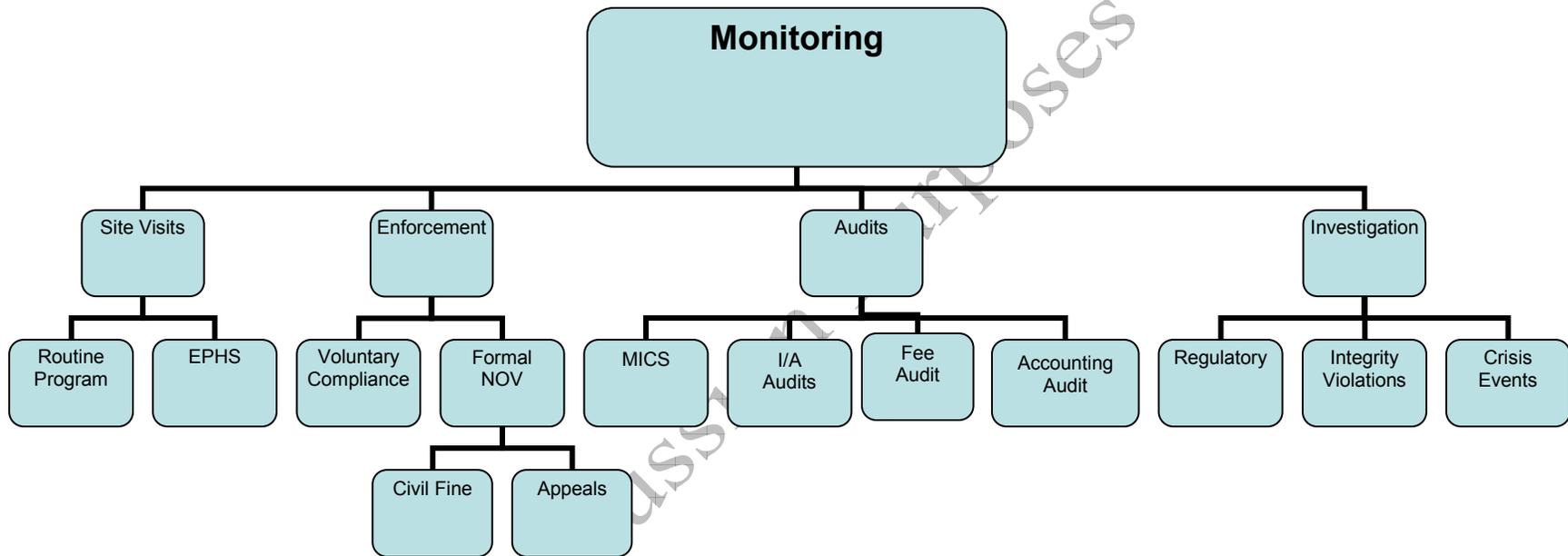


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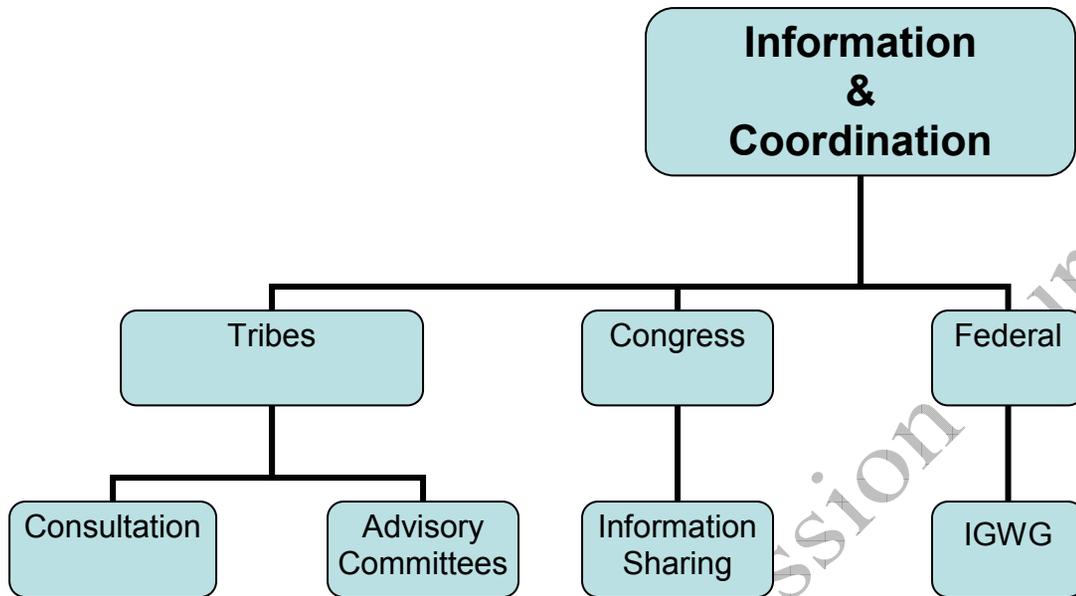
# National Indian Gaming Commission Strategy Chart



# National Indian Gaming Commission Strategy Chart

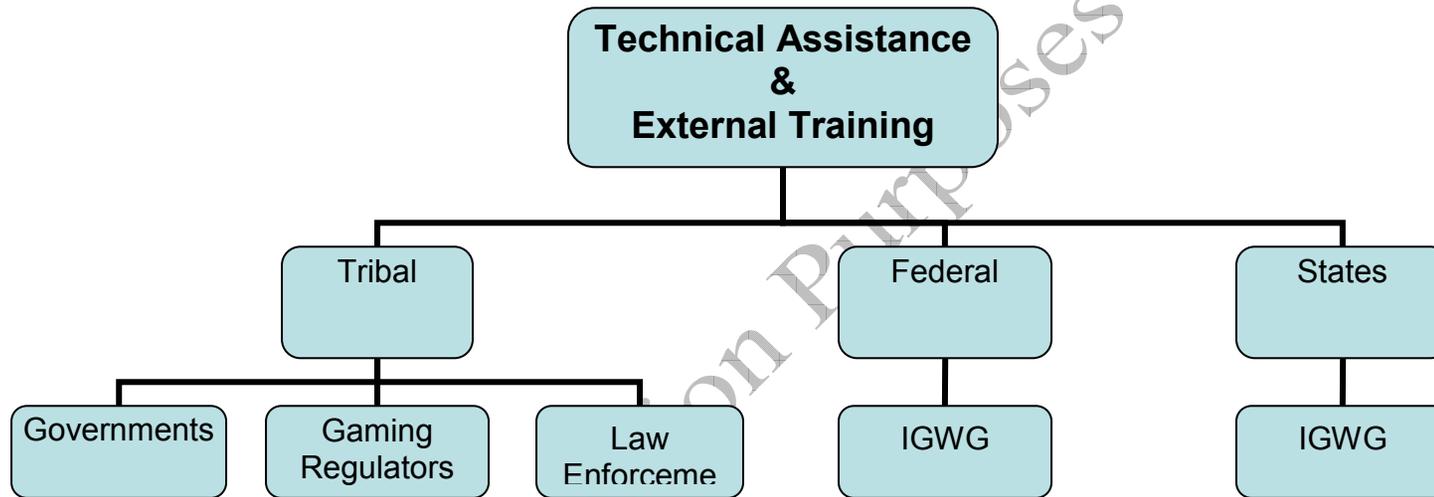


# National Indian Gaming Commission Strategy Chart

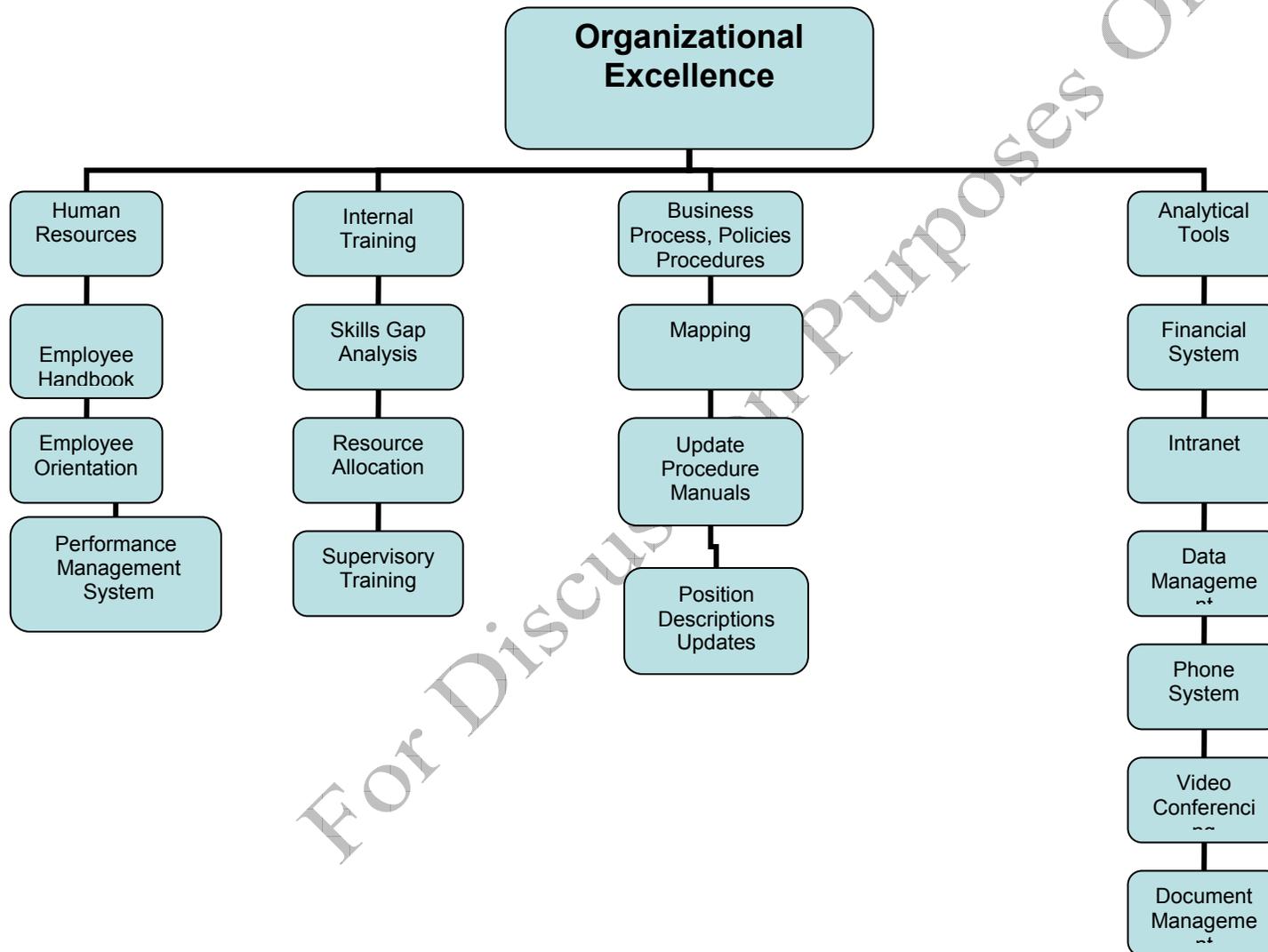


For Discussion Purposes Only

# National Indian Gaming Commission Strategy Chart



# National Indian Gaming Commission Strategy Chart



**Strength, Weaknesses, Opportunities**  
**& Threats Analysis**  
**(SWOT)**

For Discussion Purposes Only

## **National Indian Gaming Commission SWOT Analysis**

### **Strengths**

- Small federal agency with less bureaucracy
- Adequate funding source
- Direct contact with stakeholders/accessibility
- Experienced staff
- Independence
- Leveraging technologies to assist stakeholders
- Strong networking capabilities (working with other regulatory agencies and law enforcement)
- Strong primary regulation by Tribes
- Strong governmental relationships

### **Weaknesses**

- Geography and scope of regulatory responsibilities
- Not allocating resources efficiently and not having adequate control points.
- Due to uncertain Commission funding financial controls were not established for long term.
- Lack of consistent method of information sharing
- Lack of clarity in some of the provisions of IGRA
- Not in full compliance with certain federal regulations
- Lack of integrated database accessible to staff
- Rapid growth of industry
- Tribal governmental instability

### **Opportunities**

- The growth of the Indian gaming
- Improve communications through changing technologies
- Regular/consistent financial disclosure to stakeholders
- Reporting improvement to stakeholders of management practices/structures

- Continue open dialogue on regulatory practices with stakeholders
- Improve and expand training and technical assistance
- Improve relationship with all Tribal Gaming Regulatory Authorities (TGRA)
- Manage staff to cover geographical/regulatory responsibilities in a more effective manner
- Revise regulations

## **Threats**

### Regulatory

- Laws/Regulations imposed on the agency
- Successful lawsuit against NIGC regulations
- Johnson's act enforcements
- Due to our size, we are not adequately represented in the federal family decision structure within the administration
- Tribes could give jurisdiction to the states

### Technological

- Changes in gaming related equipment
- Internet gaming

### Environmental

- Terrorist attack
- Natural disaster
- Significant criminal act
- Political corruption

### Political

- Amendments to IGRA, positively or negatively
- Tribal – State compacts
- Intra-agency relations
- States could legalize or outlaw gaming
- Lobby influence on legislative outcomes
- Tribal governmental instability
- Anti gaming regulations

## **Performance Plan**

*For Discussion Purposes Only*

## Regulating

<b>Strategic Goal:</b>	<b>To ensure that Tribes are in compliance with background and licensing requirements in accordance with 25 U.S.C. 2710(b)(2)(f), 25 C.F.R. Part 556 and 558 of the NIGC regulations.</b>
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***Strategy 1:***                      ***Determine that Tribes have adopted regulations in accordance with 25 U.S.C. 2710(b)(f).***

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Licensing Reviews: Performance Outcomes and Measurers:

1. Review Tribal gaming license regulations to establish that the Tribe has adopted regulations for background and license requirements for primary management officials and key employees.
  - a. Establish that tribal gaming regulations provide background and licensing criteria for identifying key employees and primary officials:
    - (1.) 100% verification through review of tribal gaming ordinance or regulations that the tribe defines key employee in accordance with 25 C.F.R. Part 502.14.
    - (2.) 100% verification that the tribal gaming ordinance or regulations that the tribe defines licensing criteria for primary management officials in accordance with 502.19 of the NIGC regulations.
  
2. Establish tribal investigative background licensing standards are in compliance with NIGC regulations, 25 CFR 556.2 through 556.4.
  - a. Examine background procedures and investigative reports to determine compliance with 25 CFR Part 556.4:

- (1.) 100% review of background investigative reports of key employees.
- (2.) 100% review of background investigative reports for primary management officials.
- b. Examine application process of tribal gaming license to determine compliance with 25 C.F.R. Part 556.1:
  - (1.) 100% review of tribal gaming license application for key employees;
  - (2.) 100% review of tribal gaming license application for primary management officials.
3. Establish that the tribal regulatory agency is in compliance with background and license suitability determinations for key employees and primary management officials in accordance with 25 CFR Part 558.
  - a. Examine tribal gaming license eligibility process and procedures including eligibility determinations to determine compliance with 25 CFR Part 558.3:
    - (1.) 100% review of tribal gaming license suitability determinations of key employees.
    - (2.) 100% review of tribal gaming license suitability determinations of primary management officials.
  - b. Examine tribal gaming background and license reporting requirements in compliance with 25 CFR Part 558.3:
    - (1.) 100% review of gaming license suitability determination submissions of key employees.
    - (2.) 100% review of gaming license suitability determination submissions of primary management officials.

#### **Year-by Year Implementation Regulating Plan, FY 2008-2013**

- Continue to review and monitor tribal regulations for compliance with gaming license background requirements.

### Year-by-Year Program Evaluations

- Assess agency gaming license review of tribal gaming operation to determine if review is adequate to determine minimum solicitation of application information.
- Assess agency monitor of gaming license review to determine if proper review is conducted to determine if application of a gaming license is complete.

<b>Strategic Goal:</b>	<b>To ensure that Tribes and gaming operators or tribal gaming operations are conducting gaming in accordance with the IGRA, tribal law, and where applicable, requirements of a gaming compact, 25 C.F.R. 501.2 and 542.</b>
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#### *Strategy 1*

*To implement a compliance program to monitor the regulation of gaming activity through site visits, enforcement actions, audits and investigations.*

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#### Routine Program: Performance Outcomes and Measures

1. Ensure compliance with regulatory requirements of the Indian Gaming Regulatory Act and the National Indian Commission Regulations.
  - a. Perform annual site visits to each gaming tribal gaming facility:
    - (1.) 100% tracking and reporting technical assistance requests and training provided.
    - (2.) 100% tracking and reporting deficiencies of tribal regulatory policies and procedures and provide technical assistance.

- (3.) 100% tracking and reporting on-site consultations.
2. Establish that the gaming tribe has an approved gaming ordinance in accordance with USC 2710.
  - a. Review gaming ordinance approval and amendment letters from the NIGC:
    - (1.) 100% review of NIGC letters approving the gaming ordinance.
    - (2.) 100% review of gaming ordinance letter from the NIGC approving any amendments to the gaming ordinance.
    - (3.) 100% review of tribal resolutions approving amendments to the gaming ordinance.
    - (4.) 100% review of NIGC compliance report.
  - b. Determine that the Tribe is in compliance with uses of revenues in accordance with 25 U.S.C. 2710(b):
    - (1.) 100% review of tribal gaming ordinance for use of gaming revenue regulations.
    - (2.) 100% review of annual audit reports.
  - c. Ensure that any Tribe that distributes per capita payments from gaming revenue is in compliance with 25 USC 2710(b)(3):
    - (1.) 100% verification that the Tribe has formulated a revenue allocation plan.
    - (2.) 100% review of letter from the Secretary of the Interior approving the tribal revenue allocation plan.
  - d. Establish that the Tribe is complying with financial audit reporting to the NIGC in accordance with 25 U.S.C. 2710(C):
    - (1.) 100% review of NIGC compliance report.

- e. Establish that tribe has issued a facility license for each gaming operation on tribal land, 25 USC 2710(b)(1):
  - (1.) 100% review of gaming facility license posted at the gaming operation.
  - (2.) 100% review of NIGC compliance report.
  - (3.) 100% review of gaming facility license criteria to verify facility license is up to date.
- f. Ensure TGRA is enforcing over all compliance requirements of IGRA, NIGC regulations; and tribal regulations:
  - (1.) 100% verification through the review of the NIGC annual compliance report.
  - (2.) 100% verification through the review of internal compliance reports.
  - (3.) 100% verification through the review of the annual independent Agreed Upon Procedures report (AUP).
  - (4.) 100% review of follow-up reports to violation or deficiency notices issued by TGRA.
- 3. Ensure the Tribe has adopted and instituted an Environmental Public Health and Safety Program (EPHS).
  - a. Ensure adoption of EPHS:
    - (1.) 100% review of tribal health and safety regulations.
    - (2.) Perform 100% EPHS checklist.
    - (3.) Establish that voluntary compliance has been attained on violation notices issued by the tribal regulatory agencies related to gaming law or regulation violations have been addressed.
  - a. Ensure voluntary compliance:
    - (1.) 100% review of violation notices.

- (2.) 100% review of responses to violation notices.
  - (3.) 100% review of follow-up reports to responses of violation notices.
  - (4.) Recommend corrective action of regulatory violations.
4. Ensure that tribal regulatory programs are in compliance with IGRA, NIGC regulations and tribal gaming ordinances.
- a. Check TRGA for compliance:
    - (1.) 100% review and analysis of the number of procedural deficiency notices issued by the tribal regulatory agencies.
    - (2.) 100% review and analysis of the number of violation notices issued by the tribal regulatory agencies related to gaming law or regulation violations.
  - b. Identify gaming law or regulatory violations.
    - (1.) 100% review that compliance was attained by the tribal regulatory agency on gaming law and regulation violations.
    - (2.) 100% verification that no regulatory violations exist.
5. Utilize checklists and supporting documentation prepared by the OGC Division recommending the action in the drafting of Notices of Violation and proposed civil fine assessments, if any, for approval by the Chairman in a timely and efficient manner.
- a. Establish baseline time and efficiency measures:
    - (1.) 100% tracking and reporting of number of NOV's and fines.
    - (2.) 100% review of Enforcement Division checklist and other documentation for NOV or fine.

- (3.) 100% analysis of time required to draft, review and present advice on NOV or fine.
  - b. Track number and types of NOVs and fines to help set technical assistance and training priorities:
    - (1.) 100% review and analysis of NOVs and fines to help set technical assistance and training priorities.
    - (2.) 100% tracking and reporting NOVs and fines by type of violation and location.
  - c. Track appeals by type and outcome:
    - (1.) 100% tracking and reporting of number of appeals and outcomes by location.
  - d. Implement a workflow/litigation tracking system to enhance review of status and deadlines:
    - (1.) 100% tracking and reporting number of NOVs and fines.
    - (2.) 100% analysis of baseline comparison.
- 6. Enhance the process used for OGC review of tribal gaming ordinances and preparation of recommended action presented to the Chairman.
  - a. Establishment of baseline measures for “tracks” for review of ordinance submission and issuance of recommendation to Chairman based upon nature and complexity of ordinance or amendment, other factors external to the agency, or as determined by the General Counsel.
    - (1.) 100% establishment of baseline measures.
    - (2.) 100% tracking and reporting number of submitted ordinances.
  - b. Present recommended action to Chairman within 90 days of a tribe’s complete submission:
    - (1.) 100% tracking and reporting number of recommended actions by type and location.

- (2.) 100% tracking and reporting number of withdrawn submissions.
  - c. Establish baseline time and efficiency measures:
    - (1.) Utilize data gathered in (6a) and(6b) above.
  - d. Implement a workflow tracking system to enhance review of status and deadlines.
    - (1.) Utilize data gathered in (6a), (6b), and (6c) above.
- 7. Monitor compliance with the applicable MICS through the performance of audits of internal audit departments.
  - a. NIGC staff will perform MICS compliance audits and will provide a report of findings to the auditee and will also assist management of the gaming operation in the identification of deficiencies and implementation of remedial actions, as requested:
    - (1.) 100% tracking and reporting number of compliance audits initiated.
    - (2.) 100% tracking and reporting umber of compliance audits completed.
    - (3.) 100% tracking and reporting of time expended and cost of audit assignments.
    - (4.) 100% dissemination information to Tribes regarding common findings of non-compliance.
  - b. As warranted, NIGC staff initiates enforcement actions when there is a high level of non-compliance with internal audit standards and tribe has failed to exhibit a meaningful effort to rectify the control deficiencies:
    - (1.) 100% tracking and reporting number of enforcement actions initiated from the performance of internal audit department audits and document the reason the Audit Division was unable to persuade the auditee to correct the control deficiencies.

8. Monitor compliance with applicable NIGC regulations through the performance of compliance audits of casino accounting departments.
  - a. NIGC staff will perform compliance audits of casino accounting departments, will provide a report of findings to the auditee, and will assist management of the gaming operation in identification and implementation of remedial actions as requested:
    - (1.) 100% tracking and reporting number of compliance audits initiated.
    - (2.) 100% tracking and reporting number of compliance audits completed.
    - (3.) 100% analysis of time expended and cost of audit assignments.
    - (4.) 100% dissemination of information to Tribes regarding common findings of non-compliance.
  - b. As warranted, NIGC staff initiates enforcement actions when there is a high level of non-compliance and the tribe has failed to exhibit a meaningful effort to rectify the control deficiencies:
    - (1) 100% tracking and reporting number of enforcement actions resulting from audits of casino accounting departments and document the reason the Audit Division was unable to persuade the auditee to correct the control deficiencies.
9. Monitor compliance with annual fee payment requirements through the performance of annual fee audits.
  - a. NIGC staff will perform annual fee audits, will provide report findings to the auditee, and will assist management of the gaming operation in the identification and implementation of remedial actions, as requested:
    - (1.) 100% tracking and reporting number of annual fees audits initiated.

- (2.) 100% tracking and reporting number of annual fees audits completed.
    - (3.) 100% analysis of time expended and cost of the audit assignments
    - (4.) 100% dissemination of information to Tribes regarding common findings of non-compliance.
  - b. As warranted, NIGC staff initiates enforcement actions when there is a material level of non-compliance and the tribe has failed to exhibit a meaningful effort to rectify the areas of non-compliance:
    - (1.) 100% tracking and reporting number of enforcement actions initiated as a result of annual fees audits and document the reason the Audit Division was unable to persuade the auditee to correct the control deficiencies.
10. Monitor compliance with Agreed Upon Procedures (AUP).
  - a. NIGC staff will track the change in data reported in the AUP filings on an annual basis:
    - (1.) 100% analysis of declining trends in the number of compliance exceptions noted in the AUP filings.
11. Provide recommended audit programs to CPA firms and inform practitioners regarding the expectations of the NIGC.
  - a. NIGC staff will track information disseminated and training provided to practitioners regarding NIGC expectations of the NIGC:
    - (1.) Establish baseline criteria for improving benefits of information and training.
12. As warranted, initiate enforcement actions when noncompliance with AUP filing requirement is detected.
  - a. NIGC staff will track the number of enforcement actions initiated on an annual basis:

- (1.) 100% analysis of declining trends in the number of enforcement actions initiated for non-compliance with AUP filing requirements.
13. Provide information to tribes regarding common findings reflected in AUP filings and recommend remedial actions.
  - a. NIGC staff will track information disseminated and training provided to tribes regarding common findings reported in the AUPs annually:
    - (1.) 100% analysis of declining number of significant findings identified in AUP filings.
14. Monitor compliance with relevant regulations and accumulated data pertaining to the opinions rendered by the CPA.
  - a. NIGC staff monitors compliance with relevant regulations and accumulates data pertaining to the opinions rendered by the CPA:
    - (1.) 100% analysis of declining trends in instances of non-compliance with relevant regulations on an annual basis.
    - (2.) 100% analysis of declining numbers of enforcement actions initiated annually.
15. Track findings reflected in management letters of information reflecting upon the quality of the organization's internal control systems and compliance with the MICS.
  - a. NIGC staff will track findings reflected in management letters of information reflecting upon the quality of the organization's internal control systems and compliance with the MICS:
    - (1.) 100% tracking of findings will indicate trends in reported effectiveness of internal control systems and compliance with the MICS.
16. As warranted, initiate enforcement actions with non-compliance with the relevant regulations is detected.

- a. NIGC staff will initiate enforcement actions when non-compliance with the relevant regulations is detected:
  - (1.) 100% tracking and reporting number of enforcement actions initiated annually.
  - (2.) 100% analysis of trends in non-compliance resulting in enforcement actions.
17. Provide information to the Tribes regarding the number and cause of qualified, disclaimer, and adverse opinions rendered.
  - a. NIGC staff will track the number and cause of qualified, disclaimer, and adverse opinions rendered:
    - (1.) Establish baseline criteria regarding the number and cause of qualified, disclaimer, and adverse opinions rendered.
18. Provide information to Tribes regarding common control deficiencies reported in management letters.
  - a. NIGC staff will track the number and classification of control deficiencies reported in management letters:
    - (1.) Establish baseline criteria regarding the number and classification of control deficiencies reported in management letters.
19. Ensure that fraudulent and/or criminal activity is investigated in an effort to maintain the integrity of Tribal gaming operations.
  - a. Review the tribal investigative program:
    - (1.) 100% review of tribal protocols for referral of gaming related crimes.

### **Year-by Year Implementation Regulating Plan, FY 2008-2013**

- Continue site visits to tribal gaming operations.
- Improve proactive compliance program to prevent enforcement action.

- Continue to encourage tribal gaming operations to conduct annual audits of gaming operations.
- Continue to monitor or assist in investigations at tribal gaming facilities.

#### **Year-by-Year Program Evaluations**

- Assess the frequency of site visits to tribal gaming operations to determine consistency.
- Assess agency site visit reports to determine if visits were productive.
- Assess agency enforcement actions to determine effectiveness.
- Assess agency's monitoring of audit submissions to determine if submission requirements were properly documented.
- Assess agency investigative methods and techniques to determine if investigative objectives were met.

For Discussion Purposes Only

<b>Strategic Goal:</b>	<b>To perform regulatory responsibilities by implementing and monitoring gaming laws, policies, and regulations to prevent organized crime and criminal elements from infiltrating Indian gaming operations.</b>
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<b><i>Strategy 1</i></b>	<b><i>To implement a compliance program addressing approval reviews, fee collection, employee licensing, and report submission.</i></b>
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Approval Reviews: Performance Outcomes and Measures

1. Ensure program compliance with submission requirements of 25 C.F.R. 533 and 535.
  - a. Ensure that appropriate tribal official acts on behalf of Tribe and in accordance with tribal law:
    - (1.) 100% verification of tribal leader letter.
    - (2.) 100% verification of tribal leadership with Bureau of Indian Affairs.
    - (3.) 100% analysis of Tribe's constitution.
    - (4.) 100% analysis of tribal ordinance.
    - (5.) 100% analysis of tribal resolution.
  - b. Ensure proper identification of persons or entities with a financial interest in management contracts:
    - (1.) 100% analysis of list of persons or entities submitted by management contractor.
  - c. Ensure submission of background information:
    - (1.) 100% analysis of individual applications.
    - (2.) 100% analysis of entity applications.

- d. Ensure that parties to a management contract prepare a detailed business plan:
    - (1.) 100% analysis of business plan.
    - (2.) 100% analysis of business plan to management contract for consistency with scope and terms.
    - (3.) 100% analysis of National Environmental Policy Act (NEPA) documents for consistency with scope.
  - e. Ensure justification for term and management fee:
    - (1.) 100% review of submission to determine compliance with submission requirements of 25 C.F.R. 533.3(f)-(g).
    - (2.) 100% analysis of justification of term to determine compliance with 25 CFR 531.1(i)(2).
    - (3.) 100% analysis of justification for management fee to determine compliance with 25 CFR 531.1(i)(1).
2. Compliance with federal content requirements for management contracts and modifications pursuant to 25 C.F.R. Part 531.
- a. Guarantee that gaming Tribes are the primary beneficiaries of the gaming revenues when operating under a management contract:
    - (1.) 100% analysis of management contract and business plan to determine the total compensation planned.
    - (2.) 100% analysis of management contract and collateral agreements to verify that the Tribe maintains its required sole proprietary interest in the gaming operation.
    - (3.) 100% analysis of management contract terms to confirm minimum requirements have been addressed.

- b. Ensure clear responsibilities between parties in management contract:
    - (1.) 100% analysis of the contract to verify the 16 required provisions are assigned to the Tribe of contractor.
  - c. Ensure that authorized tribal officials have immediate access to the gaming operation:
    - (1.) 100% verification that the access includes the books and records.
  - d. Clear, quantified defined maximum dollar figure for recouping development and construction costs:
    - (1.) 100% validation of the figure.
  - e. Established mechanisms for dispute resolution are contained within the management contract:
    - (1.) 100% verification of mechanisms for customers.
    - (2.) 100% verification of mechanisms for disputes between the employees and management contractor.
    - (3.) 100% verification of proper mechanism for dispute between Tribe and management contractor.
3. • Ensure that Indian gaming conducted pursuant to approved gaming management contract shields the Tribes from unsuitable management contractors by complying with the federal requirements to conduct background investigations on management responsibility for the management contracts and modifications.
- a. Disapprove gaming management contract when a person with a primary management or financial interest satisfies one or more of the disqualifying factors:
    - (1.) 100% determination if persons are elected tribal officials.
    - (2.) 100% determination if any person has been

- convicted of a felony or misdemeanor gaming offense.
- (3.) 100% determination if any person provided a materially false statement or information.
  - (4.) 100% determination if any person refused to respond to questions asked by NIGC.
  - (5.) 100% determination if any person poses a threat to public interest or effective regulation of gaming.
  - (6.) 100% determination if any person creates or enhances the dangers of unsuitable, unfair, or illegal practices.
4. Compliance with other federal requirements, as required, when reviewing and approving or disapproving gaming management contracts and modifications.
- a. Ensure that lands on which gaming operation qualifies as Indian lands pursuant to IGRA and NIGC regulations:
    - (1.) 100% verification of legal description.
    - (2.) 100% verification of Indian lands opinion.
  - b. If applicable, ensure that there is an approved compact or Secretarial procedures authorizing class III gaming:
    - (1.) 100% review and analysis of current approved compact or Secretarial procedures.
    - (2.) 100% review and analysis of management contract for consistency with approved compact or procedures.
    - (3.) 100% analysis of business plan for consistency with approved compact or procedures.
  - c. Ensure that Tribes have an approved gaming ordinance for the scope of gaming planned under management contract:

- (1.) 100% analysis of approved gaming ordinance for consistency with management contract.
    - d. Compliance with NEPA:
      - (1.) 100% analysis of management contract, collateral agreements, and business plan to determine what impact, if any, on the environment pursuant to NEPA and NIGC NEPA Manual.
    - e. If applicable, ensure compliance with Section 106 for National Historic Preservation Act:
      - (1.) 100% analysis of NEPA document.
      - (2.) 100% analysis of site visit for determination if compliance is required.
      - (3.) 100% analysis for compliance with Environmental Conflict Resolution (ECR), when applicable.
5. Recommend and issue final approval or disapproval of gaming management contracts or modifications to the contracts for gaming operations on Indian lands.
  - a. Track and report the approval of gaming management contracts and modifications:
    - (1.) 100% reporting of all approved gaming management contracts.
    - (2.) 100% reporting of all modifications.
  - b. Track and report the disapproval of gaming management contracts and modifications:
    - (1.) 100% reporting of all disapproved gaming management contracts.
    - (2.) 100% reporting of all disapproved modifications.
  - c. Track the requests for all withdrawn gaming management contracts and modifications:

- (1.) 100% reporting of all withdrawn gaming management contracts.
    - (2.) 100% reporting of all withdrawn modifications.
    - (3.) 100% reporting of all disapproved modifications
  - d. Track and report on the status of pending management contracts and modifications:
    - (1.) 100% reporting of all withdrawn gaming management contracts.
    - (2.) 100% reporting of all withdrawn modifications.
6. Review and enhance the process for preparation of advisory opinions decision regarding gaming-related agreements (also known as “R” files) so as to render a decision in a more timely and efficient manner.
  - a. Establishment of baseline measures for “tracks” for review of submission and issuance of opinion based upon number, nature and complexity of agreements, other factors external to the agency, or as determined by the General Counsel.
    - (1.) 100% establishment of baseline measures
7. Review and enhance the process for determining that gaming operations are located on Indian lands on which tribes may conduct gaming.
  - a. Establishment of baseline measures for “tracks” for review of Indian lands submissions based upon nature and complexity of agreements, other factors external to the agency, or as determined by the General Counsel.
    - (1.) 100% establishment of baseline measures
8. Review and enhance the process for preparation of advisory opinions regarding game classifications so as to provide an opinion in a timely and efficient manner.

- a. Publication of bulletin to regulated community detailing procedure for requesting classification opinions, including material to be submitted.
    - (1) 100% publication of bulletin
  - b. Establishment of baseline measures for “tracks” for review of submission and issuance of opinion based upon number, nature and complexity of agreements, other factors external to the agency, or as determined by the General Counsel.
    - (1.) 100% establishment of baseline measures
9. Establish that Tribes are in compliance with tribal gaming ordinance requirements.
- a. Review tribal gaming ordinance for compliance with 25 C.F.R. Part 523.2 and 523.2:
    - (1.) 100% review of the submission of new and existing ordinance submissions.
  - b. Perform compliance review in accordance with C.F.R. Part 522.4 and 523.3:
    - (1.) 100% review for content compliance.
  - c. Recommend ordinance approval or disapproval:
    - (1.) 100% compliance with statutory requirements.
    - (2.) 100% tracking and reporting of approved, disapproved and withdrawn ordinances and amendments.

**Year-by Year Implementation Regulating Plan, FY 2008-2012:**

- Continue to strengthen the compliance program for addressing approval reviews.
- Maintain compliance or enhance process for fee collection.
- Improve gaming licensing compliance reviews.
- Encourage tribes to maintain compliance with licensing submission requirements.

**Year-by-Year Program Evaluations:**

- Assess agency approval reviews to determine if final reviews provide clear direction or determination.
- Assess agency fee collection process to determine adequate accounting and report to both the agency and Tribes.
- Assess the effectiveness of the agency monitoring practices of gaming license to determine if compliance reviews are satisfactory.
- Assess agency oversight of monitoring of licensing submission by Tribes is effective in ensuring background investigative reports are complete.

**Strategic Goal:**      **Provide accurate financial data for management decision making and transparency to stakeholders.**

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***Strategy 1:***      ***Implement multi-level budgets to enable responsible staff members to manage NIGC monies effectively.***

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Fee Collection: Performance Outcomes and Measures

1. Provide monthly financial reports to staff management.
  - a. Track and report submission of all Assessable Gaming Revenue (AGR) fee payments.
    - (1.) 100% distribution of monthly reports to management.
2. Provide budget vs. actual variances for effective budget management.
  - a. Track and report submission of variance reports:
    - (1.) 100% distribution of variance reports for division–level budget analysis.

3. Centralize revenue collections to enable efficient processing of payments.
  - a. Track and report payment process:
    - (1.) 100% distribution of variance reports for organization-level budget and analysis.
    - (2.) 100% scanning and recording of all checks.
4. Implement delegations of authority to ensure proper internal controls and funds management practices.
  - a. Review internal controls and practices:
    - (1.) 100% documentation of current business process.
    - (2.) 100% evaluation of need for change.
    - (3.) 100% implementation of needed changes.
5. Utilize budgetary information, produce and publish meaningful financial statements to public annually.
  - a. Provide accurate financial statements for public release:
    - (1.) 100% evaluation of need for change.
    - (2.) 100% implementation of needed changes.
6. Perform regular internal audits to ensure compliance with NIGC policies and procedures and to maintain the integrity of its financial position.
  - a. Provide internal audits:
    - (1.) 100% evaluation of financial internal controls.
    - (2.) 100% evaluation of funds management practices.
    - (3.) 100% implementation of delegations of authority.

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**Strategy 2:** *To provide accurate and timely data to Tribes and NIGC staff members on balances of fingerprint fee collections.*

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Fingerprint Balances: Performance Outcomes and Measures

1. Provide timely and accurate reporting of fingerprint fees due and paid.
  - a. Implement a system that accurately reports fingerprint fees:
    - (1.) 100% delivery of reports to regional offices.
    - (2.) 100% delivery of monthly bills to Tribes.
    - (3.) 90% accuracy of data reported to regional offices.
    - (4.) 90% accuracy of monthly bills to Tribes.
    - (5.) 100% collections of monies due to NIGC within 60 days.

---

**Strategy 3:** *To provide accurate and timely data to Tribes and NIGC staff members on background investigation collections.*

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Background Investigation Fees: Performance Outcomes and Measures

1. Provide timely and accurate reporting of expenses and bills for the management contract background investigations.
  - a. Timely and accurate reporting:
    - (1.) 100% tracking and reporting of deposits received.

- (2.) 100% tracking and reporting of payments received.
- (3.) 100% tracking and reporting of expenses incurred.

**Year-by Year Implementation Regulating Plan, FY 2008-2012:**

- Continue to maintain and track multi-level agency budgets
- Continue to maintain accurate reporting of regulatory fee collections
- Improve timely reporting of fee collections to the agency and Tribes
- Improve agency budget management
- Continue to maintain accurate reporting of fingerprint fee collection
- Continue to provide timely reporting of fingerprint fee collection to Agency and Tribes

**Year-by-Year Program Evaluations:**

- Assess agency financial/budget plan
- Assess agency fee collection reporting for timeliness and accuracy
- Assess agency budget management practices
- Assess agency financial/fee reports for effectiveness

## Information Sharing and Coordination

**Strategic Goal:** To promote and enhance government-to-government relationships, consultations, communication, and mutual cooperation among Indian Tribes, Congress, federal agencies, and state and local governments regarding the operation and regulation of Indian gaming under IGRA.

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**Strategy 1:** *To exchange relevant information with Tribes through consultation, collaboration, advisory committees and conference discussion panels in carrying out respective regulatory responsibilities for Indian gaming under IGRA.*

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Tribes: Performance Outcomes and Measures

1. Establish Tribal Advisory Committees, composed of tribal nominated representatives, to assist the Commission in development and implementation of proposed new federal regulations, policies, programs or standards.
  - a. Form Tribal Advisory Committees for tribal review and input on current gaming issues:
    - (1.) 100% tracking and reporting number of tribal advisory committees formed.
    - (2.) 100% tracking and reporting number of tribal representatives on committees.
    - (3.) 100% tracking and reporting number of advisory committee meetings held.

2. Provide opportunities for Tribes to consult with the Commission on issues and concerns specific to their Tribe and other issues impacting the operation or regulation of Indian gaming in accordance with Executive Order 13337 of April 30, 2004.
  - a. Engage in individual government-to-government consultations in each of the regions:
    - (1.) 100% tracking and reporting number of consultation invitations mailed to Tribes.
    - (2.) 100% tracking and reporting number of consultations held in each region.
    - (3.) 100% tracking and reporting number of Tribes attending the consultations.
    - (4.) 100% tracking and reporting number of tribal representatives participating in the consultations.
    - (5.) 100% tracking and reporting number of tribal representatives meeting with NIGC in the DC office.
3. Attend and participate in regional and national conferences and tribal associations to discuss current issues and receive input from tribal attendees.
  - a. Participate in conferences to disseminate information and receive tribal input:
    - (1.) 100% tracking and reporting number of conferences NIGC Commissioners or staff attends.
    - (2.) 100% tracking and reporting number of conferences at which NIGC Commissioners or staff is invited to speak.
    - (3.) 100% tracking and reporting number of conferences at which NIGC Commissioners or staff spoke.

---

**Strategy 2:** *To keep Congress informed of new gaming issues affecting the operation or regulation of gaming by Tribes under the provisions of IGRA.*

---

Congress: Performance Outcomes and Measures

1. Address Congressional concerns regarding Indian gaming through testimony.
  - a. Provide written and oral testimony to Congress when requested:
    - (1.) 100% tracking and reporting number of requests to testify.
    - (2.) 100% tracking and reporting number of testimonies prepared for the Senate or U.S. House of Representatives.
    - (3.) 100% tracking and reporting number of hearings attended.
    - (4.) 100% tracking and reporting number of requests for comments on legislation.
    - (5.) 100% tracking and reporting number of comments on legislation submitted.
2. Address Congressional concerns regarding Indian gaming through meetings with Senate and House staff.
  - a. Attend meetings with Senate and Congressional staff when needed:
    - (1.) 100% tracking and reporting number of meeting requests.
    - (2.) 100% tracking and reporting number of meetings attended.
    - (3.) 100% tracking and reporting number of legislative proposals requested.

- (4.) 100% tracking and reporting number of written comments provided to Senate or Congressional staff.
3. Provide information on the status of NIGC, trends in Indian gaming and other findings to Congress and the Administration.
  - a. File reports to Congress:
    - (1.) 100% tracking and reporting number of bi-annual reports submitted.
    - (2.) 100% tracking and reporting number of reports mailed to Tribes.
4. Provide briefings to members of Congress presenting a position on a specific gaming issue.
  - a. Provide briefings to members of Congress:
    - (1.) 100% tracking and reporting number of briefings requested.
    - (2.) 100% tracking and reporting number of briefings provided.

---

**Strategy 3:**

***To collaborate as needed with other federal agencies on all matters pertaining to the application, interpretation, and enforcement of the IGRA and Commission regulations.***

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**Federal: Performance Outcomes and Measures**

1. Collaborate on MOU's, MOA's and/or other protocols within the Federal family to establish and outline specific areas of responsibilities or services or to authorize sharing of investigative information.
  - a. Establish MOU's, MOA's or other protocols:

- (1.) 100% tracking and reporting number of MOU's, MOA's or other agreements developed.
  - (2.) 100% tracking and reporting of NIGC participation in joint federal agency meetings.
  - (3.) 100% tracking and reporting number of meetings with other federal agencies to discuss gaming-related issues.
2. Participate in joint federal agency meetings on issues of mutual interest:
- a. Participate in joint agency meetings:
    - (1.) 100% tracking and reporting number of meetings attended.
3. Participate in the Indian Gaming Work Group (IGWG) meetings and joint investigative efforts.
- a. Participate in IGWG meetings and investigations:
    - (1.) 100% tracking and reporting number of IGWG conference calls in which NIGC participates.
    - (2.) 100% tracking and reporting number of IGWG training sessions offered.
    - (3.) 100% tracking and reporting number of IGWG training session's participants attended.
    - (4.) 100% tracking and reporting number of IGWG meetings attended.

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**Strategy 4:**

***To share information in a cooperative spirit and work with states and Tribes on provisions of Tribal-State Class III gaming compacts.***

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States: Performance Outcomes and Measures

1. Address state concerns regarding Indian gaming through testimony.
  - a. Provide written and oral testimony to the state when requested:
    - (1.) 100% tracking and reporting number of requests to testify.
    - (2.) 100% tracking and reporting number of testimonies prepared for the State Assembly or Legislature.
    - (3.) 100% tracking and reporting number of hearings attended.
2. Address State-Tribe concerns on specific legislative, tribal compact and gaming issues through meetings with various state agencies, assembly or legislature.
  - (6.) Meet with state officials when appropriate on compact and gaming issues.
    - (1.) 100% tracking and reporting number of meeting requests.
    - (2.) 100% tracking and reporting number of meetings attended.
    - (3.) 100% tracking and reporting number of inquires from State agencies.
    - (4.) 100% tracking and reporting number of written comments provided to State officials or agencies.

**Year-by Year Implementation Regulating Plan, FY 2008-2012:**

- Continue to consult with Tribes through government-to-government consultations and advisory committees.
- Improve communication and information sharing between NIGC and Tribes.

- Strengthen cooperation and information sharing between NIGC, Tribes, federal agencies, state and local governments.

**Year-by-Year Program Evaluations:**

- Assess the quantity and quality of tribal consultations.
- Assess methods of communication with Tribes.
- Assess the effectiveness collaboration between NIGC, Tribes, federal agencies, state and local governments.

**Technical Assistance and External Training**

***Strategic Goal:***

***NIGC will provide technical assistance and external training: (1) to support and enhance the core competencies of the NIGC staff; (2) to provide basic information and skills to tribal regulators and other interested stakeholders; (3) to provide common reference point for industry, regulators and governments in setting policy and formulating regulations; (4) to ensure that the overall level of professionalism is enhanced throughout the industry, Tribal regulating bodies and the NIGC.***

---

***Strategy 1:***

***To provide technical assistance and training to Tribes in accordance to PL 109-221.***

---

Training and Technical Assistance: Performance Outcomes and Measures

1. NIGC staff provides useful training to tribal governments, gaming regulators, and law enforcement upon request.
  - a. Provide training to tribal governments, gaming regulators and law enforcement:
    - (1.) 100% tracking and reporting number of training sessions.
    - (2.) 100% evaluation of attendee satisfaction with training through evaluations.
    - (3.) 100% tracking and reporting number of people trained.
    - (4.) 100% tracking and reporting number of tribal governments, gaming regulators and law enforcement personnel receiving training.
    - (5.) 100% analysis of trends in deficiencies as defined in enforcement, contract, legal, and audit division reports.

---

**Strategy 2:**

***To provide technical assistance and training to federal agencies when requested.***

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Federal Training: Performance Outcomes and Measures

1. NIGC staff provides useful training to federal agencies.
  - a. Provide training to federal agencies:
    - (1.) 100% tracking and reporting number of training sessions.
    - (2.) 100% analysis of attendee satisfaction with training through evaluations.
    - (3.) 100% tracking and reporting number of people trained.

- (4.) 100% tracking and reporting number of federal agencies receiving training.

---

**Strategy 3:**

***To disseminate training options to Tribes, Tribal Regulatory Agencies, Regulatory Associations, and applicable federal agencies.***

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1. NIGC staff provides training options to Tribes, Tribal Regulatory Agencies, regulatory associations, and applicable federal agencies.
  - a. Provide training:
    - (1.) 100% employment of a Director of Training.
    - (2.) 100% development of a NIGC training and technical assistance catalogue.
    - (3.) 100% dissemination of catalogue to Tribes, Tribal Regulatory Agencies, regulatory associations, and applicable federal agencies.

**Year-by Year Implementation Regulating Plan, FY 2008-2012:**

- Continue to consult with Tribes regarding training needs.
- Improve the training catalogue.
- Improve the training options.

**Year-by-Year Program Evaluations:**

- Assess the number of training sessions requested.
- Assess methods of training.
- Assess the effectiveness of training provided.

## Organizational Excellence

**Strategic Goal 1: To establish human resource policies creating a safe, accountable, and non-discriminatory environment.**

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Strategy 1: Establish consistent work standards, rules, and regulations to strengthen organizational structure and maintain organizational protection and compliance with governmental policies, laws, and procedures.

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### Standards, Rules and Policies: Performance Outcomes and Measures

1. Complete and administer an employee handbook approved by the Commission.
  - a. Complete and administer employee handbook approved by the Commission:
    - (1.) 100% distribution of handbook.
    - (2.) 100% acknowledgement of employee receipt.
    - (3.) 100% attendance of annual organizational review of handbook.
2. Implement standard orientation process.
  - a. Implement a standard orientation process:
    - (1.) 100% new employee attendance at orientation.
    - (2.) 80% employee satisfaction with orientation information.
    - (3.) 80% employee satisfaction with orientation process.

3. Develop a standard performance appraisal with specific measurable behaviors tied to agency strategic goals.
  - a. Implement performance appraisal process:
    - (1.) 100% employee training on performance appraisal process.
    - (2.) 100% management training on how to implement performance appraisal process.
    - (3.) 100% employee receipt of performance appraisal review.
    - (4.) 100% collection and accurate filing of performance appraisals in personnel records.
    - (5.) 100% linkage of performance measures to agency strategic goals.

#### **Year-by-Year Implementation Plan, 2008-2012**

- Develop consistent work policies and procedures.
- Bring agency into compliance with federal laws and regulations.

#### **Program Evaluation**

- Assess implementation of employee orientation program, employee handbook, and performance management system for consistency, complicity, and effectiveness.

**Strategic Goal 2: Ensure that the agency has properly skilled employees through internal training.**

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***Strategy 1 Identify strengths and weaknesses of employees to ensure proper training.***

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Internal Training: Performance Outcomes and Measures

1. Conduct skills gap analysis.
  - a. Survey skills of employees to identify areas of training needed:
    - (1.) 100% employee participation in skills gap analysis.
    - (2.) 100% development of training plan based on gaps and deficiencies identified in skills gap analysis and performance appraisals.
2. Ensure sufficient financial and time resource allocations to training efforts.
  - b. Ensure that supervisors provide funding and time for each employee to participate in training:
    - (1.) 100% tracking and reporting of percentage of training allowance per employee spent.
    - (2.) 100% tracking and reporting number of employees trained.
    - (3.) 100% analysis of ratio of training hours to number of employees for all NIGC staff.
    - (4.) 100% analysis of ratio of training hours per division to number of employees per division.

- (5.) 100% analysis of ratio of recommended training hours in training plans to number of employees for all NIGC staff.
  - (6.) 100% analysis of ratio of recommended training hours per division in performance plans to number of employees per division.
3. Ensure supervisors receive training on key management practices, policies, and federal regulations.
    - a. Provide training to all NIGC staff in supervisory roles:
      - (1.) 100% tracking and reporting number of training hours provided for supervisors on core management practices, policies, and federal regulations.
      - (2.) 100% supervisory staff attendance at training on core management practices, policies, and federal regulations.
      - (3.) 100% funding of selected supervisory training activities.
      - (4.) 80% supervisor satisfaction with training.

#### **Year-by-Year Implementation Plan, 2008-2012**

- Identify skills which employees need to develop to perform jobs properly and efficiently.
- Create effective training program for employees and supervisors.

#### **Program Evaluation**

- Evaluate training program to ensure that agency's business processes are supported sufficiently.

**Strategic Goal 3: Evaluate and improve, where needed, business processes to enhance efficiency, and utilize resources effectively.**

---

**Strategy 1: Analyze core business processes to improve operational efficiency.**

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Business Process Improvement: Performance Outcomes and Measures

1. Identify and map core business processes.
  - a. Develop list of core NIGC business processes and map them for analysis.
    - (1.) 100% of core business processes identified
    - (2.) 100% of core business processes mapped.
    - (3.) 100% analysis of AS-IS core business processes to determine if improvement is required.
    - (4.) 100% core business process redesign of identified AS-IS processes.
    - (5.) 100% of process redesigns adopted by Commission.
    - (6.) 100% training of staff affected by new process redesign.
    - (7.) Less than 10% employee error rate after 60 days of implementation of each new business process.
    - (8.) 100% capture of baseline process measures.
    - (9.) 100% establishment of service level agreements.

- (10.) 90% consistent attainment of service level agreements.
2. Update procedural manuals
    - a. Update procedural manuals
      - (1.) 100% updates, as needed, made to manuals annually.
  3. Analyze and write-if necessary position descriptions.
    - a. Maintain up to date position descriptions
      - (1.) 100% of position descriptions updated
      - (2.) 100% employee receipt of position descriptions.
      - (3.) 100% supervisor meetings with employees to review responsibilities presented in position descriptions.
      - (4.) 100% completion of industry salary comparative analysis.

#### **Year-by-Year Implementation Plan, 2008-2012**

- Evaluate core business processes to determine areas of improvement to increase efficiency and staff accountability.
- Update procedural manuals and position descriptions to accurately reflect workflows and staff responsibilities.

#### **Program Evaluation**

- Ensure business processes are meeting established cycle times and service level agreements.
- Ensure staff responsibilities are accurately reflected in procedural manuals and position descriptions.

**Strategic Goal 4: Update and implement management and analytical tools to provide effective service to internal and external customers.**

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***Strategy 1: Create information systems supporting data integrity, information sharing, efficient reporting capabilities, and communication.***

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Management and Analytical Tools: Performance Outcomes and Measures

1. Implement financial system to support core financial processes and provide better financial reporting.
  - a. Put financial system into operation at NIGC:
    - (1.) 100% implementation of system.
    - (2.) 100% budgeted allocation for system.
    - (3.) 100% training provided to users.
    - (4.) 80% user satisfaction with new system.
    - (5.) 100% of annual publication of NIGC financial statements.
    - (6.) 100% of identified financial services moved in-house.
2. Implement an intranet to foster internal communication and sharing of resources and information.
  - a. Put intranet into operation at NIGC:
    - (1.) 100% implementation of system.
    - (2.) 100% budgeted allocation for system.
    - (3.) 100% training provided to users.

- (4.) 80% user satisfaction with new system.
  - (5.) 100% work culture analysis completed.
3. Rebuild data management system to leverage data captured for core business processes and to integrate multiple systems.
  - a. Implement database management system:
    - (1.) 100% implementation of system.
    - (2.) 100% budgeted allocation for system.
    - (3.) 100% training provided to users.
    - (4.) 80% user satisfaction with new system.
4. Implement an updated phone system.
  - a. Upgrade phone system to enhance NIGC communications:
    - (1.) 100% implementation of system.
    - (2.) 100% budgeted allocation for system.
    - (3.) 100% training provided to users.
    - (4.) 80% user satisfaction with new system.
5. Implement video conference system to improve communication between regional offices and headquarters.
  - a. Put video conference system into service at NIGC:
    - (1.) 100% implementation of system.
    - (2.) 100% budgeted allocation for system.
    - (3.) 100% training provided to users.
    - (4.) 80% user satisfaction with new system.
6. Implement a document management system to facilitate Freedom of Information Act requests and to comply with records retention requirements.

- a. Put documents management system into operation at NIGC:
  - (1.) 100% implementation of system.
  - (2.) 100% budgeted allocation for system.
  - (3.) 100% training provided to users.
  - (4.) 80% user satisfaction with new system.

**Year-by-Year Implementation Plan, 2008-2012**

- Successfully implement technological systems to enhance agency performance.

**Program Evaluation**

- Determine if systems were implemented successfully, including evaluating level of user acceptance.

For Discussion Purposes Only

# **FINANCIAL FORECAST**

2008 - 2012

*For Discussion Purposes Only*

**Financial Forecast:**

This chart represents a financial forecast of NIGC expenses, personnel and fee rate for the years 2008 to 2012. The year 2007 is the current fiscal year budget which serves as the base for the forecast. This forecast was prepared using certain key assumptions outlined below. If any of the key assumptions should change the forecast would be accordingly affected.

(\$ = 000)	Base Year	Forecast	Forecast	Forecast	Forecast	Forecast
Financial Category	2007	2008	2009	2010	2011	2012
Salaries and Benefits	\$11,600	\$13,865	\$14,990	\$16,089	\$17,133	\$18,318
Domestic Travel	\$1,574	\$1,809	\$1,987	\$2,154	\$2,475	\$2,661
Rent, Communications, & Utilities	\$1,186	\$2,182	\$1,609	\$2,958	\$1,807	\$1,862
Printing & Reproduction	\$70	\$79	\$84	\$89	\$94	\$99
Supplies, Materials, & Equipment	\$352	\$404	\$434	\$462	\$488	\$517
Training/Technical Assistance	\$1,035	\$1,183	\$1,339	\$1,492	\$1,596	\$1,695
Other Services	\$1,618	\$1,666	\$1,716	\$1,768	\$1,821	\$1,876
Miscellaneous	\$1,500	\$847	\$784	\$808	\$2,332	\$3,902
Less: Reimbursements & Reserve	(\$4,350)	(\$4,155)	(\$3,155)	(\$3,155)	(\$3,213)	(\$3,273)
<b>TOTAL</b>	<b>\$14,585</b>	<b>\$17,881</b>	<b>\$19,788</b>	<b>\$22,665</b>	<b>\$24,533</b>	<b>\$27,657</b>
Personnel	106	123	129	134	138	143
Fee Rate	0.059%	0.066%	0.066%	0.069%	0.068%	0.069%

**Key Assumptions:**

- Expenses
  - Salaries and Benefits will increase in accordance with current federal policies regarding annual step increases, cost of benefits and maintenance of records and increases in head count.
  - Travel will increase at a higher overall rate than other expense categories based on cost of airfare and lodging.
  - Rent will increase due to known lease expirations for regional offices and due to a projected relocation of the Washington DC headquarters office effective in 2010.
  - Training and Technical Assistance (TT&A) will grow at a higher rate than other expense categories except travel because of P.L. 109-221 requirement for the NIGC to provide a higher level of TT&A.
  - Miscellaneous expenses reflect anticipated relocation expenses, required capital replacements and an allocation for unforeseeable expenses.
  - Reimbursements reflect changes in actual out-of-pocket expense incurred in the processing of finger print cards and background investigations.

- Personnel
  - Overall personnel growth will be consistent with the NIGC mission, growth in the Indian gaming industry and additional requirements for TT&A.
- Status and Growth of Indian Gaming
  - There is not a clarification by Congress of NIGC authority with regard to the promulgation and enforcement of Minimum Internal Control Standards (MICS) for Class III gaming.
  - The expansion of gross gaming revenue is consistent with the growth rate reported by the NIGC for 2006 (10% per year).
  - This rate of gross gaming revenue expansion does not take into account the impact of new, amended or extended compacts and the opening of new and expanded operations in various states.
  - Does not take into account any other changes in gaming laws, political changes, consumer trends or other environmental changes that would have an affect on Indian gaming.

**Selected Financial Categories:**

Over the five year forecast period the **overall budget** of the NIGC grows from \$17.9 million in 2008 to \$27.2 million in 2012. This is an average overall average year to year growth rate of 10.4%. The increase is a result of the cap placed on the agency since inception. PL 109-221 removed a dollar cap and replaced it with a maximum percentage on assessment on the gross gaming revenue. Prior to 2007 the cap was \$12 million per year. The maximum percentage is now .08% of gross revenue. The effect of the cap had been to stifle necessary personnel expansion, capital purchases, infrastructure improvements and industry training.

PL 109-221 also requires that the NIGC provide **technical assistance and training** to tribes. The NIGC expects to provide TTA to tribes with direct forecasted costs of around \$1.2 million in 2008 growing to \$1.7 million in 2012, an overall 8.7% average growth year to year. When the indirect costs of salaries, travel, and other administrative support are included the forecasted costs are about \$1.5 million in 2008 and 2.3 million in 2012.

**Salaries and benefits** are the largest portion of the forecast. Over the forecast period salaries and benefits make up at least 59% of the overall budget. Over the 5 year forecast period salaries and benefits grow from \$13.9 million in 2008 to \$18.3 million in 2012. This is an overall average growth of 6.4% year to year. The NIGC forecasts that full time personnel will be 123 in 2008 growing to 143 in 2012. The forecast assumes that a majority of the increase will be in the professional staff of regional offices with a corresponding increase in administrative support at the headquarters office.

The NIGC's second largest forecasted expense is **travel**. It is expected that during the forecast period that travel will grow at an average year to year rate of 9.4% in part due to increased expenses attributed to increased TTA. Over the 5 year forecast period travel grows from \$1.8 million in 2008 to \$2.7 million in 2012.

**Rent, communications & utilities** are forecast to grow over the forecast period at an average year to year rate of 3.5%. In 2008 this expense category is \$1.2 million and \$1.9 million in 2012. This does not include relocation expenses included in 2008 and 2010 of the forecast period. The NIGC has its headquarters in Washington, D.C. with five field offices located in: Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma. Regional satellite offices are located in Rapid City, South Dakota; Temecula, California; Bellingham, Washington; and Flowood, Mississippi. The Commission is considering opening additional regional satellite offices in those areas with substantial growth such as Michigan, Florida, New Mexico, and Northern California.

**Other services** involves the NIGC contracting with outside federal service providers to for example, administration of NIGC participation in various mandated federal programs such as the Federal Flexible Spending Account (FSA) Program, with the National Business Center for acquisitions, and postage, with DOI to provide audit and accounting as well as payroll, with DOI Minerals Management to provide human resources support services, with the Treasury to provide check processing and collection, and with various other businesses entities. Historically given the small size of the NIGC this has allowed for control of overall expense and the amount and type of personnel required. Over the forecast period this expense category grows from \$1.7 million in 2008 to \$1.9 million in 2012. This is an average year to year percentage growth of 2.5%.

**Miscellaneous** expenses vary greatly year to year over the forecast period. This due to the inclusion in this category periodic capital purchases required to update systems and keep pace with personnel growth as well as to comply with various accounting and other regulations. In addition, the last 2 years of the forecast (2011 & 2012) include larger than normal amounts in order to anticipate future NIGC growth and to accommodate uncertainty.

The **Fee Rate** is directly determined by the total forecasted expenses of the NIGC. Section 2717 of IGRA provides for the funding of the NIGC. Section 2717 (a)(2)(B) specifically provides for the maximum fee rate the NIGC may assess in a given fiscal year - *the total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation under this Act.* The following table represents the fee rates over the forecast period and compares them to the maximum fee rate allowed in Section 2717.

**Comparison of Forecasted Fee Rate**

(\$ = 000)	Base Year 2007	Forecast 2008	Forecast 2009	Forecast 2010	Forecast 2011	Forecast 2012
<b>Forecast Fee Rate</b>	0.059%	0.066%	0.066%	0.069%	0.068%	0.069%
<b>Forecast Fees</b>	\$ 14,585	\$ 17,881	\$ 19,788	\$ 22,665	\$ 24,533	\$ 27,657
<b>Maximum Fee Rate</b>	0.080%	0.080%	0.080%	0.080%	0.080%	0.080%
<b>Maximum Fees</b>	\$ 19,815	\$ 21,796	\$ 23,976	\$ 26,374	\$ 29,011	\$ 31,912
<b>% Difference</b>	-0.021%	-0.014%	-0.014%	-0.011%	-0.012%	-0.011%
<b>\$ Difference</b>	(\$5,230)	(\$3,916)	(\$4,188)	(\$3,709)	(\$4,478)	(\$4,256)

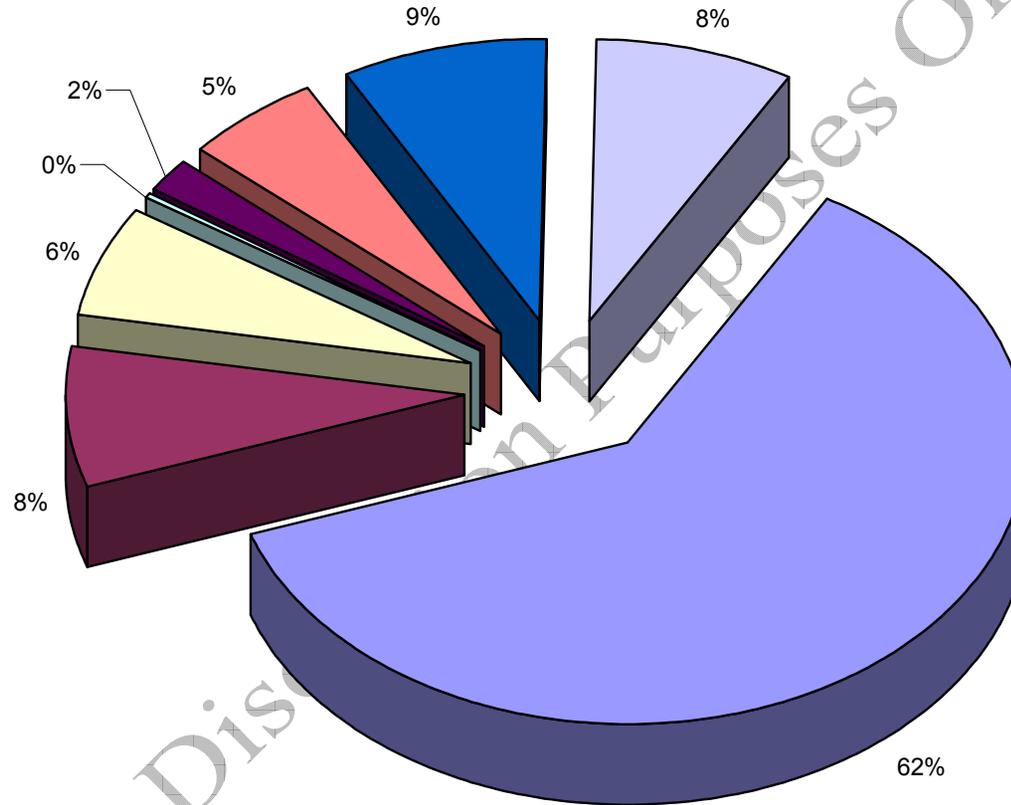
The following table reports the percentage breakdown of all expense categories from the base year (2007) through the last of the forecast (2012).

**Percentage of Overall Forecast**  
(Before Reimbursements & Reserves)

Financial Category	Base Year 2007	Forecast 2008	Forecast 2009	Forecast 2010	Forecast 2011	Forecast 2012
Salaries and Benefits	61.26%	62.92%	65.33%	62.31%	61.75%	59.22%
Domestic Travel	8.31%	8.21%	8.66%	8.34%	8.92%	8.60%
Rent, Communications, & Utilities	6.26%	9.90%	7.01%	11.45%	6.51%	6.02%
Printing & Reproduction	0.37%	0.36%	0.37%	0.35%	0.34%	0.32%
Supplies, Materials, & Equipment	1.86%	1.83%	1.89%	1.79%	1.76%	1.67%
Training/Technical Assistant	5.47%	5.37%	5.84%	5.78%	5.75%	5.48%
Other Services	8.54%	7.56%	7.48%	6.85%	6.56%	6.06%
Miscellaneous	7.92%	3.84%	3.42%	3.13%	8.40%	12.61%

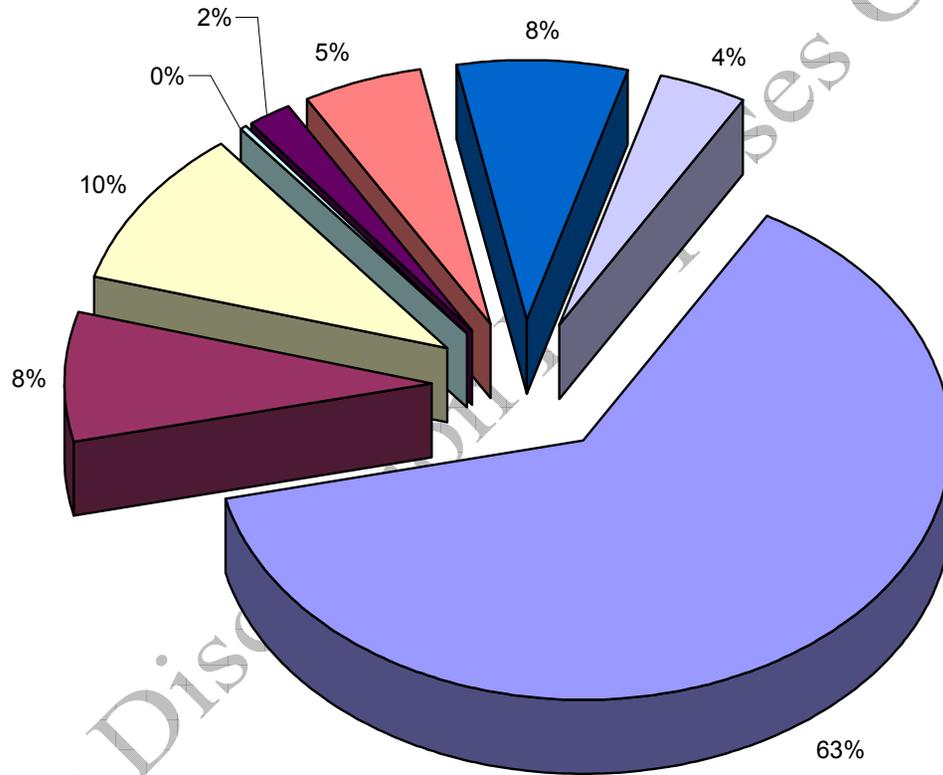
### 2007 - Percentage of Total Budget

(b/4 reimbursements)



Salaries and Benefits	Domestic Travel	Rent, Communications, & Utilities	Printing & Reproduction
Supplies, Materials, & Equipment	Training/Technical Assistance	Other Services	Miscellaneous

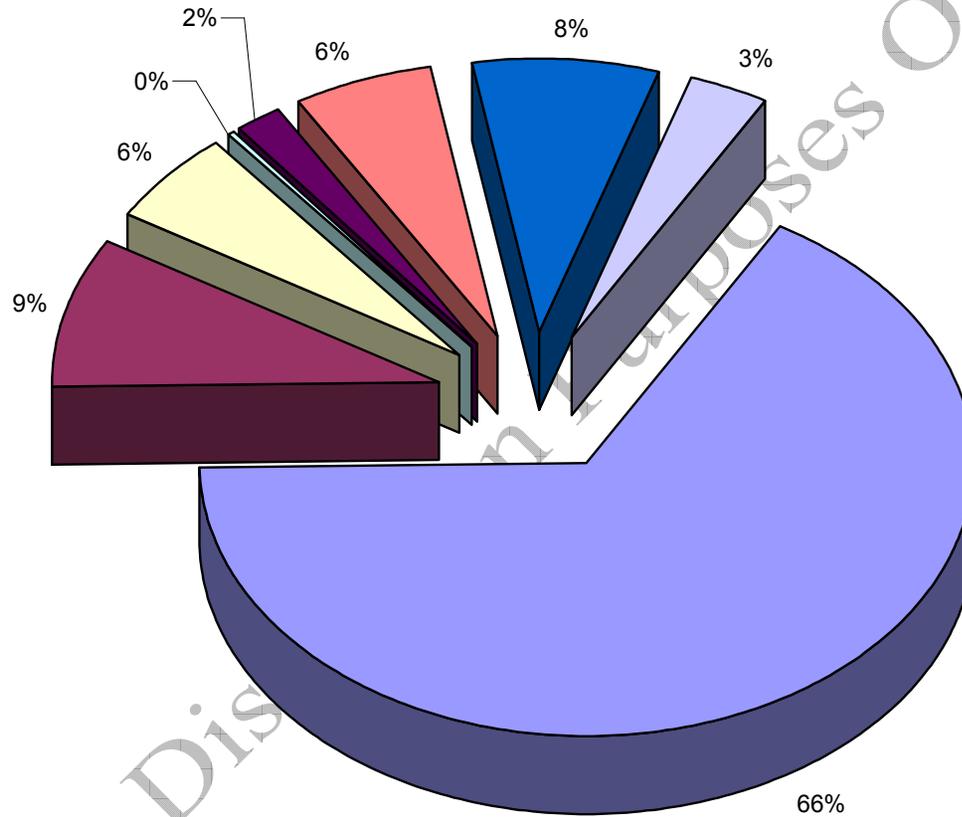
### 2008 - Percentage of Total Budget (b/4 reimbursements)



Salaries and Benefits	Domestic Travel	Rent, Communications, & Utilities	Printing & Reproduction
Supplies, Materials, & Equipment	Training/Technical Assistance	Other Services	Miscellaneous

### 2009 - Percentage of Total Budget

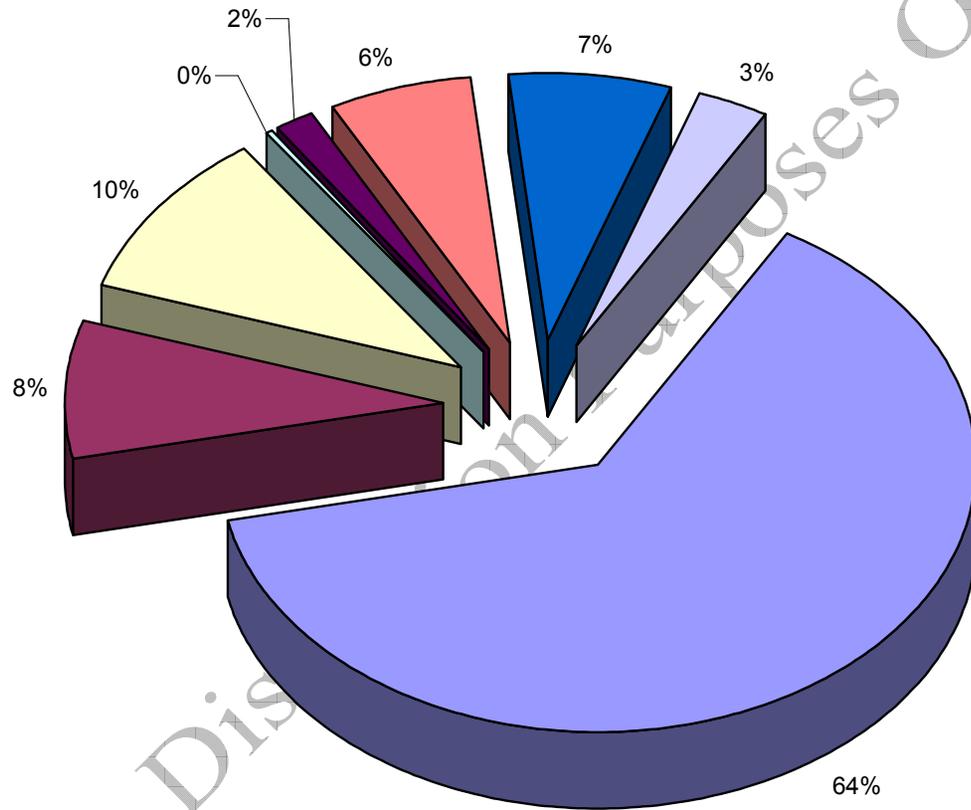
(b/4 reimbursements)



Salaries and Benefits	Domestic Travel	Rent, Communications, & Utilities	Printing & Reproduction
Supplies, Materials, & Equipment	Training/Technical Assistance	Other Services	Miscellaneous

# 2010 - Percentage of Total Budget

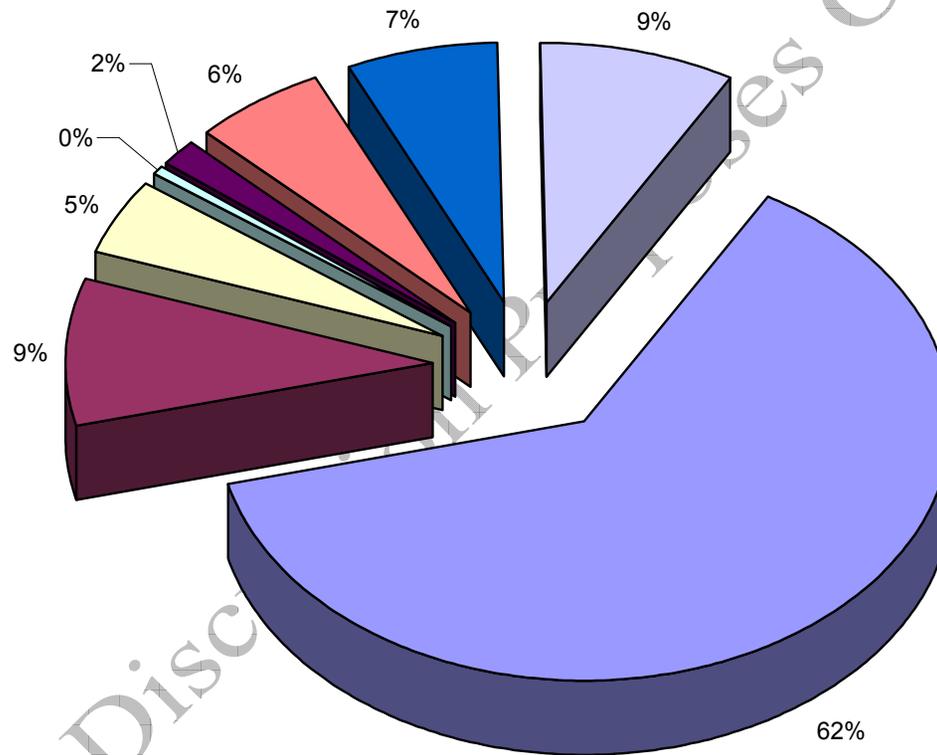
(b/4 reimbursements)



Salaries and Benefits	Domestic Travel	Rent, Communications, & Utilities	Printing & Reproduction
Supplies, Materials, & Equipment	Training/Technical Assistance	Other Services	Miscellaneous

## 2011 - Percentage of Total Budget

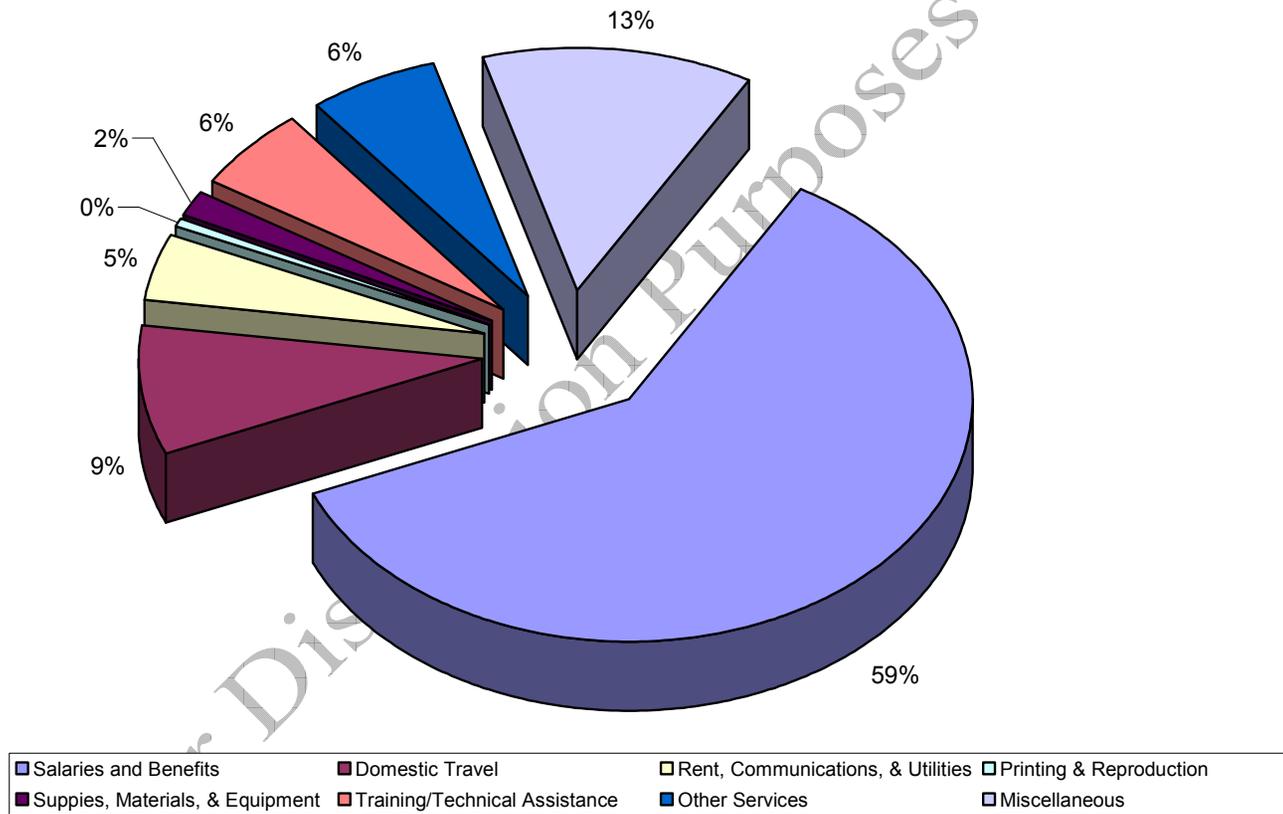
(b/4 reimbursements)



Salaries and Benefits	Domestic Travel	Rent, Communications, & Utilities	Printing & Reproduction
Supplies, Materials, & Equipment	Training/Technical Assistance	Other Services	Miscellaneous

## 2012 - Percentage of Total Budget

(b/4 reimbursements)



### **The Cost of Regulation**

The Indian gaming industry has grown from around \$200 million in 1988 to over \$25 billion in 2006. Through 2006 the industry has experienced a 15% average annual growth. Double digit growth is expected to continue over the forecast period. Gaming depends on the public perception and belief in the integrity of operations they choose to patronize. A balanced regulatory approach includes: (1) tribes as the primary regulator with the day-to-day responsibilities and heavy lifting; (2) states having whatever role is provided in the tribal-state compact, usually oversight insuring state policy and applicable laws are adhered to as well as assuring that any revenue sharing payments agreed to are properly calculated and made; and (3) NIGC having the role of making sure that the overall regulation is consistent and fair. Consistent, fair and stable regulation and oversight will continue to foster the growth of Indian gaming.

The following graph illustrates the overall amount spent by the three groups responsible for regulating Indian gaming. The total spent in 2006 as estimated by the National Indian Gaming Association is \$419 million.



\* Source - NIGA 2006

# **APPENDIX A**

**NATIONAL INDIAN GAMING COMMISSION**

**TRAINING CATALOG**



**NATIONAL INDIAN GAMING COMMISSION  
TRAINING CATALOG**

**PHILIP N. HOGEN, CHAIRMAN  
CLOYCE V. CHONEY, VICE-CHAIRMAN  
NORMAN H. DESROSIERS, COMMISSIONER**

October 1, 2007

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## PREFACE

The National Indian Gaming Commission (NIGC) provides training to the Indian gaming industry, regulators and other stakeholders. It is the goal of this training to continuously improve the standards of operations, regulation and compliance with the Indian Gaming Regulatory Act (IGRA), tribal ordinances and other applicable laws and regulations.

The following is a compendium of training topics provided by the NIGC. The training is presented by NIGC staff and other qualified individuals. Because the primary duties of the NIGC are to provide regulatory oversight, the resources available for training are limited. Training is provided by region and on a first come first served basis. For this reason we encourage those requesting training to do with as much advance planning as possible and where possible to join with others so that the training can reach the widest audience possible.

One of the most important aspects of any successful gaming operation is how well its employees maintain and keep up with new innovations, ideas, and changes in technology. One way to assist them in doing this is through training. Professional training is recommended for newly hired personnel as well as for continued education of current employees. If your gaming operation has a high employee turnover rate then it is extremely important to schedule periodic training in all phases of your daily operation. If your tribe has a gaming operation then training and technical assistance is highly recommended due to the continuing and rapid development of gaming machine technology. Other reasons for training are to keep up with changes to rules and regulations, continued improvements to your casino operations, and to ensure your gaming operations do not run into any non-compliance issues. The NIGC can assist you in this important and worthwhile endeavor.

This catalog contains a list of training topics that can assist in your individual or your organization's professional development. The NIGC will provide any type of training you request at no cost to your tribe or commission. The instructors will be experienced personnel from the NIGC, professional trainers from the private sector, or from other federal agencies. All of the trainers will be well versed in all aspects of gaming operations or knowledge about their subject matter.

Please note that any topic involving legal matters such as land into trust, proprietary interest, etc., will be coordinated with the Office of General Counsel. Matters involving audits, MICS concerns, and compliance issues will be handled by the Director of the Audit Division. Training for law enforcement and security personnel can be accomplished by attendance at regional training conferences co-sponsored by the NIGC, the Indian Gaming Working Group and the Federal Bureau of Investigation.

Tribal leaders, gaming commission members, and other recipients of this catalog wishing to request training need to make contact with the appropriate Regional Director. Details regarding the topics to be taught, date, time, location and number of persons anticipated to attend the training will be directly with the Regional Director. As noted above, coordination of training can be a time-consuming process, for this reason the Region Directors would appreciate as much advance notice as possible.

## **SENIOR STAFF**

All Senior Staff can be contacted at NIGC Headquarters, 1441 L Street, N.W., Suite 9100, Washington, D.C., 20005, telephone (202) 632-7003, fax (202) 632-7066.

Chief of Staff	Joseph M. Valandra
Director of Congressional Affairs	Shawn Pensoneau
Office of General Counsel	Penny J. Coleman
Director of Administration	Kelly Esseesy
Director of Audits	Joe Smith
Director of Contracts	Elaine Trimble-Saiz
Director of Enforcement	Cesar Valdez

## REGION DIRECTORS

### **Region I – Portland**

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## INTRODUCTION

The following is a compendium of training topics provided by the NIGC. This training is for tribal leaders, tribal gaming commissions, regulatory or compliance officials, operation personnel, or anyone selected by your tribe to attend. The instructors will be a cadre within the NIGC and others who are experienced and knowledgeable with regard to the subject matter they are to teach. This experience and knowledge has been obtained through their day-to-day experience with compliance and regulatory issues.

Training topics are divided by NIGC divisions: Enforcement, Audits, Contracts and the Office of General Counsel. The training topics listed in this catalog are not all inclusive. Therefore, we would like to hear from you concerning any type of needed training and ask you to contact one of our Regional Directors to discuss. With this catalog, the Chairman, Commissioners, and the Staff of the National Indian Gaming Commission hope to provide your tribe the opportunity to improve your gaming operations.

For further information or announcements on training not listed in this catalog please visit the NIGC website at [www.nigc.gov](http://www.nigc.gov) .

**ENFORCEMENT DIVISION**

**CESAR VALDEZ, JR.**

**DIRECTOR**

## **An Introduction to the National Indian Gaming Commission**

This 1-hour course provides an overview of the National Indian Gaming Commission, the structure of the Commission, and the responsibilities of each Division within the organization. Recommended attendees include tribal councils and civic groups.

**Instructors:** Region Senior Staff

**Frequency:** Upon Request

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Via NIGC website and soon the NIGC operated  
National Informational & Security Exchange portal

## **Tribal Background Investigations & Licensing (TBIS)**

A 4-hour course is currently being offered to gaming commissioners, background investigators and other licensing staff covering those sections of IGRA related to the background investigation and licensing processes of key employees and primary management officials. A review of the two major MOU's concerning submission of background materials to the NIGC and the dissemination of criminal history information will also be conducted. Also included are suggestions and recommendations on how to develop and maintain a secure, compliant file.

**Instructors:** NIGC Region Field Investigation staff. Usually only one FI is needed.

**Frequency:** Class size will vary from one to a maximum of 12

**Training Materials:** Pertinent sections of IGRA and NIGC Bulletins in hard copy and directions to NIGC website  
Review of the conditions described by the FBI on each CHRI  
Internal NIGC memo on preparation of cards  
Exemplar of FBI CHRI record  
Auxiliary forms utilized by the NIGC and FBI such as the CJIS Name Search form  
Power Point programs are also available

### **Notice of Training**

**to Tribes:** Via NIGC website and soon the NIGC operated National Informational & Security Exchange portal.

**Timeline:** Currently offered.

## **Slot Machine Compliance (SMC)**

The 4-day course provides hands-on instruction and training designed to familiarize tribal gaming commissioners, compliance officers and other key regulatory personnel with the routine operation and compliance issues of slot machines. A gaming machine manufacturer under contract with the NIGC is providing their expert training officers as the primary instructors. The instruction will include machine overview and component identification, game operation, information resources (game certification letters, PAR sheets and service manuals), pay tables, pay table verification, logic components, game optioning, key chip procedures and hopper reconciliation.

**Instructors:** Gaming machine manufacturer employees

**Training Materials:** Eleven (11) on-site, current models of slot machines  
Manuals on each type of machine  
MICS sections pertaining to slot machines  
Surveillance video segments on slot machine crimes  
Power Point as needed by the contract personnel

### **Notice of Training**

**to Tribes:** Via the NIGC website and the NISE. First come/first served basis

**Timeline:** As requested

## **Vendor Licensing**

Although not an NIGC or IGRA requirement, many tribal compacts and ordinances impose a requirement to background and make suitability determinations of companies providing goods and services to tribal gaming facilities. This is a 2-hour course teaching the fundamentals of conducting due diligence on companies and their principals conducting business with tribal gaming facilities. The course will answer such questions as why backgrounds are necessary, appropriate fees, exemptions, process, who should be backgrounded, resources, renewals, and samples of investigative reports.

**Who should attend:** Commissioners, background investigators, gaming operation procurement/purchasing personnel

**Professional experience level:** No prerequisites

**Instructor:** NIGC field investigators or Commissioner

**Duration:** 2 hours

## **Tribal Gaming Commissioners – Duties and Responsibilities (TGC)**

The 8-hour, one-day course is designed to instruct gaming commissioners (and prospective commissioners) on commission duties and responsibilities including the role of ethics, auditing, internal control standards, file security, background investigation and licensing per IGRA. The course will also focus on the relationships between the commission and the tribal council, casino management, auditing staff, local criminal justice agencies and the NIGC.

Tribal Council members and other tribal government officials and casino management are highly encouraged to attend in order for the government officials to fully understand the authority placed in the gaming commissioners and to promote successful working relationships between all entities in a tribal gaming operation.

*We recommend the course be presented to one tribe at a time due to the sensitive nature of information discussed regarding ethics and investigations. Only one commission at a time will allow a freer exchange of ideas and identification of potential problem areas.*

**Instructors:** NIGC Region Field Investigation staff. In the future we are considering including our Audit Division personnel and selecting and inviting a tribal gaming commissioner or executive director that operates a successful commission

**Frequency:** Upon Request

**Training Materials:** NIGC Model Gaming Ordinance  
IGRA Regulations associated with compliance, audits and authority  
NIGC Bulletins  
Published articles  
Power Point lesson plans

**Notice of Training to Tribes:** Via the NIGC website and NISE

## **The Science of Conducting Background Investigations**

A 2-hour block of instruction is presented to gaming commissioners and background investigators in a multi-tribe setting. Information is presented on the required elements of a complete investigation and required time frames for completion and submission. Information is also presented which is designed to assist the investigator or supervisor in locating relevant information and documentation. Websites are provided or shared which will facilitate the information gathering process. It is hoped that the multi-tribal setting will encourage networking and interaction between and among those present.

**Instructors:** NIGC Region Staff

**Frequency:** As Needed or Upon Request

**Training Materials:** Power Point  
NIGC Bulletins and FBI Guidelines

### **Notice of Training**

**to Tribes:** Letters to the tribes or e-mail  
Postings to the NIGC website

## **Introduction to Bingo Regulation**

A 1-hour interactive presentation that discusses the regulatory requirements for bingo and provides a differentiation between tribal commercial bingo and charitable bingo. Licensing and backgrounding issues for small bingo operations are also discussed.

**Instructors:** NIGC Region Staff

**Frequency:** Based on Need

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Letters or e-mail from the host tribe  
NIGC website

## **Basic IGRA**

A 2-hour presentation provided as an overview of the Indian Gaming Regulatory Act to tribal governments, regulators and gaming employees. Critical elements of the Act are broken out and discussed with an emphasis on elements which require action on the part of the participants.

**Instructors:** NIGC Region Staff or Office of General Counsel

**Frequency:** Upon Request or As Needed

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Letters to the tribes

## **Criminal Activity/Preservation of Evidence and Testifying**

A 3-hour block of instruction which traces the history of criminal activity in the gaming industry. This course is provided for gaming commissions, investigators and surveillance personnel and is intended to take the attendee step by step through the process of identifying criminal activity, gathering and preserving evidence and ultimately providing testimony. There is a common complaint that the judicial system is not interested in prosecuting gaming cases. This course is intended to enable the attendee to provide a more complete and hopefully enticing case for the prosecutor.

**Instructors:** NIGC Region Staff

**Frequency:** Upon Request

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Letters or e-mails from the host tribe  
Postings on the NIGC website

**AUDIT DIVISION**

**JOE H. SMITH**  
**DIRECTOR**

## **Statistical Computations and the MICS**

A 90 minute review of MICS required statistical calculations. In addition to providing instruction on the necessary steps to complete the calculations, the presenter provides a historical review of instances where calculations were not completed appropriately and losses were incurred due to criminal activity. The review includes black jack hold percentages, slot machine variance identification and investigation and theoretical hold calculations for single and multi-game machines.

**Instructors:** NIGC Region Staff and Field Auditor

**Frequency:** Upon request

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Letters to the Tribe and/or email from the host tribe  
Postings on the NIGC website

## **The MICS and Surviving a MICS Audit**

A 2 to 4 hour interactive presentation that explains a MICS audit from notification to the tribe to presentation of the results follow-up. The MICS portion of the program is primarily question and answer on any MICS related issue. To facilitate questions a slotted box with index cards is placed at the reception table where participants are encouraged to write out their questions and place them into the box so that they can be asked anonymously.

**Instructors:** NIGC Region Staff and Staff Auditor

**Frequency:** Upon Need or by request

**Training Materials:** Power Point and MICS checklist

### **Notice of Training**

**to Tribes:** By specific request from a Tribe

## **Value of External and Internal Auditing**

Fraud and abuse is a significant issue in the conduct of any business, especially in the cash intensive gaming industry. Gain an understanding of why the internal and external audit functions are important to the organization and, with regard to financial audits, how the reporting requirements of SAS 112 may better satisfy your expectations. Emphasis will be on the benefits of the audit function.

**Who Should Attend:** Tribal Council, Gaming Commissioners, Enterprise (Gaming) Board, Gaming Operation Management and persons seeking to gain an overall appreciation for the independent auditing function.

**Professional Experience Level:** No prior gaming or accounting experience required.

**Instructors:** Auditor

**Duration:** 1-hour presentation

## **Value of Internal Control Systems**

The potential risks presented by various gaming operation processes must be periodically evaluated to ensure that the controls continue to be effective. Learn the basic goals of internal controls, which are generally defined as providing reasonable assurance that the organization is utilizing resources effectively and efficiently, financial data is reliable and there is compliance with applicable laws and regulations. Gain knowledge of actions needed to institute effective internal controls including, a brief introduction of the Committee of Supporting Organization's (COSO) integrated internal control framework. Emphasis will be on understanding the purpose of internal controls, what is necessary for the systems to be effective.

**Who Should Attend:** Gaming Commissioners, Gaming Operation Management/Controller and persons seeking to gain an overall understanding of the need for strong internal controls.

**Professional Experience Level:** No prior gaming or accounting experience required.

**Instructors:** Field Auditor

**Duration:** 1-hour presentation

## **Benefits of Agreed-Upon Procedures Engagement**

Lecture will discuss the benefits of engaging an independent Certified Public Accountant (CPA) to annually evaluate the system of internal controls. Learn the NIGC recommended scope of responsibilities of the CPA in the performance of an Agreed-Upon Procedures engagement. Suggested criteria for reliance on Internal Audit will also be discussed, as well as the difference between the Agreed-Upon Procedures report stipulated in the MICS and a management letter. Emphasis is on gaining an understanding of the nature and purpose of the independent evaluation of the gaming operation's internal control systems.

**Who Should Attend:** Tribal Council, Gaming Commissioners, Enterprise (Gaming) Board, Gaming Operation Management/Controller, Auditors and persons seeking to gain an overall understanding of how the Agreed-Upon Procedures report can benefit the gaming operation.

**Professional Experience Level:** No prior gaming or accounting experience required.

**Instructors:** Field Auditor

**Duration:** 2-hour presentation

## **Internal Audit Function**

Gain an appreciation of the role of internal audit by understanding the professional standards that guide the internal audit profession, including the NIGC internal audit guidelines. Become familiar with the independence and reporting requirements of the profession and the characteristics of an audit program and report of findings. Emphasis will be on providing guidance on what is necessary for an organization to have an effective internal audit process. Sample audit documents will be provided.

**Who Should Attend:** Internal/Compliance Auditors, Tribal Gaming Regulatory Authority accounting professionals and other persons responsible for ensuring the effective use and management of audit resources.

**Professional Experience Level:** Accountant or equivalent education/training with limited experience in the Internal Audit function.

**Instructors:** Field Auditor

**Duration:** One day presentation

## **Minimum Internal Control Standards (MICS)**

Gain an understanding of the risks associated with critical processes of a gaming environment through a discussion of the NIGC MICS. Individual MICS checklist sections will be explained in detail. Emphasis is on practical and relevant issues in auditing against the federal regulation.

**Who Should Attend:** CPA firms, Internal/Compliance Auditors and persons responsible for ensuring the effective use and management of audit resources.

**Professional Experience Level:** Accountant or equivalent education/training well experienced in gaming internal control systems.

**Instructors:** Field Auditor

**Duration:** 3 day presentation

## **Auditing Information Technology**

With advances in technologies in the gaming environment, identification of the risks associated with technological change is essential. Lecture will seek an understanding of the risks associated with information technology through an explanation of the intent of the NIGC MICS. Emphasis is on practical and relevant issues in auditing IT.

**Who Should Attend:** Internal Auditors and those responsible for ensuring the effective use and management of audit resources.

**Professional Experience Level:** Accountant or equivalent education/training well experienced in gaming internal control systems.

**Instructors:** IT Field Auditor

**Duration:** 2-hour presentation

## **NIGC Fees**

Each gaming operation under the jurisdiction of the NIGC is required to make quarterly fee payments to the NIGC. The lecture will address the calculation of the fees. Discussions will include the reconciliation of the fee payments to the audited financial statements. Emphasis is on providing practical knowledge necessary to complete the NIGC recommended *Worksheet for Computing and Reporting Annual Fees Payable to the NIGC*.

**Who Should Attend:** Gaming Operation Management/Controller and persons seeking to gain an understanding of how the NIGC fee is calculated. This training is a must for anyone charged with the responsibility of performing the computation.

**Professional Experience Level:** General understanding of accounting and experienced in completing the NIGC fee worksheet.

**Instructors:** Field Auditor

**Duration:** 2-hour presentation

## **Gaming Machine Performance Analysis**

Frauds often occur as a result of poor internal controls or management override of internal controls. Understand the purpose of and what to look for in comparing gaming machine actual hold percentages to the theoretical hold percentage. Learn how to compute the adjustment in the theoretical hold percentage for multi-game/multi-denominational machines in the gaming machine statistical report to a weighted average based upon the ratio of coin-in for each payable. Emphasis is on providing practical knowledge necessary to analyze the gaming machine monthly statistical analysis reports.

**Who Should Attend:** This training is a must for anyone charged with the responsibility of producing the gaming machine analysis reports and performing the investigation of unacceptable deviations.

**Professional Experience Level:** General understanding of accounting and experienced in the gaming machine statistical analysis process.

**Instructors:** Field Auditor

**Duration:** 4-hour presentation

## **Information Technology – Process**

In today's gaming environment there is the growing need to access information systems from anywhere at any time. Gain an understanding of the vulnerabilities associated with information technology and relevant NIGC auditing standards. Emphasis is on practical and relevant IT auditing challenges in a gaming environment.

**Who Should Attend:** Information technology professionals and persons responsible for facilitating the communication expectations between customers, vendors and employees.

**Professional Experience Level:** IT professional well-experienced in gaming IT programs and applications.

**Instructors:** IT Field Auditor

**Duration:** One day presentation

## **Minimum Bankroll Formula**

The minimum bankroll formula is intended to ensure gaming operations maintain cash or cash equivalents in an amount sufficient to satisfy obligations to its customers as incurred. The calculation of the new minimum bankroll formula will be explained in detail. Emphasis is on providing practical knowledge necessary to complete the recommended *National Indian Gaming Commission Minimum Bankroll Verification*.

**Who Should Attend:** Gaming Operation Management/Controller and persons seeking to gain an understanding of how the minimum bankroll formula is calculated. This training is a must for anyone charged with the responsibility of performing the computations.

**Professional Experience Level:** General understanding of accounting and experienced in the management of the gaming operation's bankroll.

**Instructors:** Field Auditor

**Duration:** 1-hour presentation

## **Accounting Standards**

Training will address the computation of gross gaming revenue, which varies by revenue center and can be complex. Learn the calculation of gross gaming revenue for table games, gaming machines, and other revenue centers. The second half of the presentation will discuss administrative and accounting procedures for the purpose of effective controls over the organizations fiscal affairs.

**Who Should Attend:** Gaming Operation Management/Controller, accounting professionals and person seeking to gain an understanding of NIGC accounting standards.

**Professional Experience Level:** Accountant or equivalent education/training well experienced in accounting systems for a gaming environment.

**Instructors:** Field Auditor

**Duration:** 1 day presentation

## **Revenue Audit Function**

Gain an understanding of the benefits associated with an effective revenue audit process. Learn the responsibilities of revenue audit and how a strong revenue auditing function can detect and deter irregularities. Emphasis is on practical and relevant issues of auditing gaming documentation.

**Who Should Attend:** Gaming Commissioners, Gaming Operation Management/Controller and persons seeking to gain an overall understanding of the need for a strong revenue audit function.

**Professional Experience Level:** General understanding of accounting and experienced in the revenue audit process.

**Instructor:** Field Auditor

**Duration:** 1 day presentation

## **Overview of Title 31**

Gaming operations should maintain internal control standards for currency transaction reporting that comply with 31 CFR Part 103 and to receive resource information regarding who to contact at IRS and FinCen on the subject of specific Title 31 questions. This course will provide and discuss examples of frequent internal control weaknesses noted by the Audit Division. Included in the discussion will be suggestions on how these weaknesses can be improved. Emphasis is on receiving information and resources toward meeting Title 31 requirements in the gaming environment.

**Who Should Attend:** Gaming Commissioners, Gaming Operation Management/ Controller and persons seeking to receive information and resources needed to create a strong Title 31 program.

**Professional Experience Level:** General understanding of gaming or accounting Experience is required.

**Instructor:** Field Auditor

**Duration:** 1-hour presentation

**OFFICE OF GENERAL COUNSEL**

**PENNY J. COLEMAN**

**ACTING GENERAL COUNSEL**

**MICHAEL GROSS**

**ASSOCIATE GENERAL COUNSEL**

**GENERAL LAW**

**JO-ANN M. SHYLOSKI**

**ASSOCIATE GENERAL COUNSEL**

**LITIGATION AND ENFORCEMENT**

## **Eligibility of Land for IGRA Gaming**

A 1-2 hour course is being offered to gaming commissioners and tribal leaders. The course will be in two parts. The first part will explain what constitutes Indian lands under the Indian Gaming Regulatory Act (IGRA) and which Indian lands are eligible for gaming. The second part will explain the documentation necessary to prove that land qualifies for IGRA gaming and will take questions based on specific situations. The class will explain how to use prior agency Indian land opinions and federal court cases for guidance and how to request an Indian lands opinion.

**Instructors:** NIGC Office of General Counsel

**Frequency:** Upon request. Maximum class size should not exceed 10 people

**Training Materials:** Directions to NIGC website  
Power Point slides in hardcopy format  
Other materials as needed when reliance upon a specific Indian lands exception is known in advance

### **Notice of Training**

**to Tribes:** Via NIGC website and training manual

**Timeline:** Ready for offer within the next six months

## **How to Identify Potential IGRA Violations**

A course to help tribal gaming commissions identify potential violations of the IGRA. This course can be tailored to fit specific needs. Topic of focus can include the following violations: Class III gaming without an approved compact; managing without an approved contract; net revenue uses; including violations of existing revenue allocation plans or net revenue allocation to members without the benefit of a revenue allocation plan; sole proprietary interest; MICS; background investigations; and audit and fee submissions. Ample time for questions.

**Instructors:** NIGC Office of General Counsel staff attorney, NIGC Audits auditor and/or NIGC Enforcement Field Investigator

**Frequency:** Annually

**Length:** This course can be tailored to fit specific needs. A ½ day, full day, or two day course is offered, depending on the subject areas of interest. Please contact the Office of General Counsel to discuss

**Training Materials:** Power Point slides in hardcopy format  
Sample Notices of Violation/Closure Orders  
Sample Document Requests  
Sample Subpoenas  
Sample R Contract letters

### **Notice of Training**

**to Tribes:** NIGC website, mass mailing, and training manual

**Timeline:** Currently offered

## **Class II Technical Standards**

A 90 minute to 2 hour course is currently being offered to gaming commissioners and casino managers. The course will focus on the meaning and implementation of the new 25 C.F.R. Part 547, Class II technical standards. Particular attention will be paid to 1) reviewing novel terminology and mapping it to current practice, 2) reviewing the technology submission and certification process and other procedural requirement, and 3) significant technical issues and requirements.

**Instructors:** NIGC Office of General Counsel

**Frequency:** Annually or semi-annually. Maximum class size should not exceed 40 people

**Training Materials:** 25 C.F.R. Part 547  
Power Point slides in hardcopy format  
Other materials as they become available

**Notice of Training to Tribes:** Via NIGC website and training manual

**Timeline:** Currently offered

## **The Unlawful Internet Gaming Act**

A 30 to 45 minutes course is currently being offered to gaming commissioners and tribal counsel. The course will focus on the meaning and implementation of the new Unlawful Internet Gaming Act 31 U.S.C. Title 53, which prohibits accepting payment for unlawful Internet gaming and requires financial institutions to block prohibited payments. Particular attention will be paid to application of the Act to Indian country and to Indian gaming.

**Instructors:** NIGC Office of General Counsel

**Frequency:** Annually or semi-annually. Maximum class size should not exceed 30 people

**Training Materials:** 31 U.S.C. Title 53  
Power Point slides in hardcopy format  
Other materials as they become available

### **Notice of Training**

**to Tribes:** Via NIGC website and training manual

**Timeline:** Currently offered

## **Self Regulation of Class II Gaming: Approval Requirements, Process and Benefits**

A course on the requirements for certification of self regulation of Class II gaming is currently offered to tribal gaming commissions. The course will explain the self regulation certification process, including submission requirements, criteria for obtaining a certificate, the NIGC audit that would be performed, reporting requirements, and circumstances that may cause removal of the certificate. The benefits of a certificate of self regulation will be discussed. Ample time for questions.

**Instructors:** NIGC Office of General Counsel staff attorney, NIGC Audits auditor and NIGC Enforcement Field Investigator

**Frequency:** Annually

**Length:** 2-hours

**Training Materials:** Power Point slides in hardcopy format  
Copy of NIGC regulations, 25 C.F.R. Part 518

### **Notice of Training**

**to Tribes:** NIGC website, mass mailing, and training manual

**Timeline:** Currently offered

## **Federal/State/Tribal Regulations**

A 1-2 hour course (depending on the number of speakers) is currently being offered to gaming commissioners. The course may be taught as a one hour, one speaker event or a two hour event involving a three person panel (schedules of speakers permitting). The course will focus on the role of each sovereign and how all three can coordinate most effectively on issues that concern us all. The course will deal with issues of joint jurisdiction, the roles and duties of the NIGC versus the Department of the Interior, and other concerns. Examples of coordinated efforts and suggestions for improvement will be provided.

**Instructors:** NIGC Office of General Counsel. If a panel discussion is feasible, OGC will invite state and tribal Attorney Generals to participate as a panel discussion

**Frequency:** Annually or semi-annually. Maximum class size should not exceed 20 people for purposes of obtaining appropriate and adequate space for the presentation

**Training Materials:** Directions to NIGC website  
Power Point slides in hardcopy format  
Other materials as they become available

### **Notice of Training**

**to Tribes:** Via NIGC website and training manual

**Timeline:** Currently offered

## **Game Classification**

A 4-hour course is currently being offered to gaming commissioners covering the section of IGRA and NIGC regulations related to determining whether a game qualifies as Class II. Instruction will be given in the procedures for machine certification as well as how to analyze the machine internally.

**Instructors:** Office of General Counsel

**Frequency:** Class size will vary from 12 – 20

**Training Materials:** Pertinent sections of IGRA and NIGC regulations

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Not currently offered

## **Ethics**

A 1-hour course is currently being offered to gaming commissioners and commission staff. Gaming commissioners and gaming commission staff are responsible for ensuring that integrity of the tribe's gaming activity and well as the security of all gaming assets. As such, gaming commissioners and gaming commission employees should adhere to a high standard of ethical conduct. The course will focus on the various ethical issues that gaming commissioners and commission staff typically encounter such as conflicts of interest, acceptance of gifts, bribery, and gaming commission independence.

**Instructors:** Office of General Counsel

**Frequency:** Upon request

**Training Materials:** Power Point slides in hardcopy format

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Currently offered

## **Responding to Potential and Actual NIGC Enforcement Actions**

A 1-hour course offered to tribal attorneys, outside counsel, gaming commissioners, and tribal leaders covering how tribes may respond to IGRA compliance issues that may lead (or have led) to an enforcement action from the NIGC. Topics include how and by whom enforcement decisions are made at the NIGC; the various enforcement tools that the NIGC may employ to correct IGRA violations; the procedural mechanisms available to tribes to respond to each enforcement tool that NIGC may employ, including opportunities for appeal; and recommendations for reaching an amicable resolution of the enforcement action.

**Instructors:** Attorneys from the NIGC Office of General Counsel

**Training Materials:** Power Point slides in hard copy format  
NIGC website tour

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Currently offered

## **Drafting and Submitting a Tribal Gaming Ordinance**

A 2-hour course is currently being offered to interested tribal representatives covering the various sections of IGRA and NIGC regulations as they relate to the contents and submission of a gaming ordinance for the NIGC Chairman's approval. The course offers suggestions and recommendations for avoiding potential roadblocks to approval when drafting and submitting an ordinance to the NIGC.

**Instructors:** NIGC Office of General Counsel Staff

**Frequency:** Class size will vary from one to maximum of 12

**Training Materials:** Pertinent sections of IGRA and NIGC regulations  
Applicable NIGC Bulletins  
NIGC Model Gaming Ordinance  
NIGC Office of General Counsel's Ordinance Review  
Checklist  
Contact information for the appropriate NIGC staff to help the Tribe with the ordinance process

**Notice of Training  
to Tribes:** Via NIGC website

**Timeline:** Currently offered

## **Prerequisites to Conduct Gaming**

A ½ hour overview course is currently being offered to tribal councils, gaming commissioners and others seeking a basic explanation of what tribes must do before they can start gaming under the Indian Gaming Regulatory Act. It will be followed by a question and answer period designed to address participant's specific questions.

**Instructors:** NIGC Office of General Counsel and NIGC Region  
Field Investigation Staff

**Frequency:** As needed

**Training Materials:** Outline and/or Power Point

### **Notice of Training**

**to Tribes:** Via NIGC website  
At specific request of tribes or communities  
seeking this information

**Timeline:** Currently offered

## **Management Contracts and Sole Proprietary Interest**

A 1-hour course is currently being offered to tribal officials; attorneys, gaming commissioners; and other interested parties addressing what constitutes a management contract and the mandate of the Indian Gaming Regulatory Act, 25 U.S.C. §2710 (b)(2)(A), that Tribes have the sole proprietary interest in their gaming activity. Topics will include: distinguishing between a management contract and other contracts; the consequences of failing to have a management contract reviewed and approved by the NIGC Chairman; and the legal basis and understanding of proprietary interest.

**Instructors:** NIGC Office of General Counsel Attorneys

**Frequency:** Class size will vary from 12 – 20

**Training Materials:** Pertinent sections of IGRA and NIGC regulations  
NIGC Bulletin No. 1994-5

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Not currently offered

## **Practical Application to Privacy Act Matters**

A 1-hour course is currently being assembled that will be offered to gaming commissioners, background investigators and other licensing staff covering NIGC regulations allowing for the release of information on individuals and corporations contained in the NIGC systems of records.

**Instructors:** Office of General Counsel, Privacy Act Officer

**Frequency:** Class size will vary from 10 – 20

**Training Materials:** List of NIGC systems of records  
NIGC Routine Use Regulations  
Privacy Act

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Course is being prepared

## **Appeals Before the Commission**

A 1-hour course is currently being offered to gaming commissioners, management contractors, tribal officials, and any other parties who may contemplate appealing a decision on either a tribal gaming ordinance or a management contract or the issuance of a Notice of Violation, proposed Civil Fine Assessment or Order for Temporary Closure. This session will discuss which decisions are able to be appealed, as well as the deadlines and substance of appeals before the Commission.

**Instructors:** Office of General Counsel Staff, typically only one attorney is needed

**Frequency:** Depends upon interest level. Class size will vary from one to maximum of 12

**Training Materials:** Sample appeals on various types of actions

### **Notice of Training**

**to Tribes:** Via NIGC website

**Timeline:** Available beginning in October

## **Other Gaming Laws**

A 1-hour course is currently being offered to gaming commissioners. The course will focus on the laws other than IGRA that may be relevant to or impact gaming operations. The course will outline the gaming laws and explain the provision(s) relevant to the gaming operations. Copies of the other gaming laws will be provided, either in full or in part to further the discussion.

**Instructors:** Office of General Counsel, Chief of Staff

**Frequency:** Annually. There is no class size limit on this presentation

**Training Materials:** Directions to NIGC website  
Power Point slides in hardcopy format  
Copies of laws or relevant provisions

**Notice of Training  
to Tribes:** Via NIGC website

**Timeline:** Currently offered

**CONTRACTS DIVISION  
ELAINE TRIMBLE-SAIZ  
DIRECTOR**

**NATIONAL ENVIRONMENTAL POLICY ACT  
(NEPA)**

**BRADLEY A. MEHAFFEY  
NEPA COMPLIANCE OFFICER**

**JOHN MANIS  
CHIEF, FINANCIAL BACKGROUNDS**

## **Management Contract Requirements**

A 1-2 hour course that is currently being offered to tribal officials, tribal gaming commissioners, management contractors, their attorneys and lenders. The course provides technical guidance and training on compliance with NIGC Regulations for submission of management contracts and amendments, 25 C.F.R. Parts 533 and 535, and the content requirements, 25 C.F.R. Part 531.

**Instructors:** NIGC Contracts Division Staff

**Frequency:** Depends on requests, usually monthly. Class size 10-20, meetings are usually specific to one tribe or contractor. Class can be modified for regional workshops when needed or requested.

**Training Materials:** NIGC Regulations  
NIGC Checklists,  
IGRA and previously approved redacted management contracts

**Notice of Training  
to Tribes:** Via email and/or website

## **Management Contractor Background Investigations**

A 1-hour class on compliance with IGRA and NIGC requirements for background investigations on persons and entities with a financial interest in, or management responsibility for a gaming management contract. Compliance with 25 C.F.R. Parts 533 and 537.

**Instructors:** NIGC Contract Division Staff

**Frequency:** Depends on requests, usually monthly. Class size 5-15, meetings are usually specific to one tribe and one contractor. Class can be modified for regional workshops when needed

**Training Materials:** NIGC Regulations  
NIGC Checklists  
IGRA and NIGC Background Investigation Applications

### **Notice of Training**

**to Tribes:** Via email and/or website

## **National Environmental Policy Act (NEPA) Basics**

An 8-hour course is offered to tribal representatives, management company personnel, and environmental consultants that will cover the many roles and responsibilities as they relate to preparation of NEPA documents for the National Indian Gaming Commission (NIGC). It will cover the NEPA statute, the Council on Environmental Quality (CEQ) regulations, and NIGC NEPA guidance. It will explain how the requirements of other environmental laws are complied with and incorporated into the NEPA process.

**Instructor:** NIGC NEPA Compliance Officer

**Frequency:** Course will be scheduled once 12 students within a geographic region have been identified. Class size 12 – 30

**Training Materials:** Power Point Presentation, a course workbook that will contain  
Power point slides and reference materials  
Excerpts from previously prepared NEPA documents

### **Notice of Training**

**to Tribes:** Via NIGC website

## **Environment Health and Safety**

A 90 minute presentation which focuses on a common sense approach to health and safety issues. The presenter outlines and discusses the scope of this agency's authority and reviews portions of the EH&S worksheet citing real life examples of safety violations that pose an imminent threat to either patrons or employees. Emergency preparedness and evacuation procedures are discussed at length. The presentation is suitable for regulators, managers, and tribal officials.

**Instructors:** Region Staff

**Frequency:** Upon request or upon need

**Training Materials:** Power Point

### **Notice of Training**

**to Tribes:** Letters to Tribes

# **APPENDIX B**

**NATIONAL INDIAN GAMING COMMISSION**

**CONSULTATION POLICY**

The National Indian Gaming Commission ("NIGC" or "Commission"), in consultation with Federally-recognized Indian tribes, establishes and issues this Government-to-Government Tribal Consultation Policy, which shall take effect immediately and remain in effect until further order of the Commission.

## **Introduction**

### ***Fundamental Principles of the Government-to-Government Relationship***

The United States of America has a unique government-to-government relationship with Federally-recognized Indian tribes, as set forth and defined in the Constitution of the United States and Federal treaties, statutes, Executive Orders, and Federal court decisions. Since its formation, the United States has recognized Indian tribes as sovereign nations, which possess and exercise inherent sovereign authority over their members and territory to the extent recognized and defined by the Constitution of the United States, Federal treaties, statutes, Executive Orders, and Federal court decisions. Pursuant to this unique government-to-government relationship, the Federal Government has enacted numerous statutes and promulgated numerous administrative regulations that establish and define its trust responsibilities to Indian tribes and address issues concerning tribal self-governance, tribal territory and resources, and tribal treaty and other rights.

A principal goal of long-standing Federal Indian policy is to support the federally recognized sovereignty of Indian tribes by promoting tribal economic development, tribal self-sufficiency, and strong tribal governance and self-determination over their internal affairs. In 1988, to further this policy and also address congressional concerns regarding the absence of clear Federal standards or regulations for the conduct of Indian gaming, Congress enacted the Indian Gaming Regulatory Act ("IGRA" or "Act"), 25 U.S.C. 2701 et seq., for three specified purposes:

To provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal government;

To provide a statutory basis for the regulation of Indian gaming adequate to shield it from organized crime and other corrupting influences; ensure that tribes are the primary beneficiaries of their gaming operations; and assure that the gaming is conducted fairly and honestly by both the operator and players; and,

To declare that the establishment of independent Federal regulatory authority and Federal standards for Indian gaming and the establishment of the NIGC are necessary to meet congressional concerns regarding Indian gaming and protect it

as a viable means of generating tribal governmental revenues and furthering the policies and purposes of IGRA.

***Tribal, Federal, State and Local Rights and Interests Regarding the Operation and Regulation of Indian Gaming Under IGRA***

The NIGC was established by IGRA as an independent Federal regulatory agency. The Act vests the Commission with certain regulatory powers and responsibilities for Indian gaming, including broad authority to promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the Act.

IGRA recognizes and provides that the operation of gaming on Indian lands is primarily a function of tribal sovereignty. Indian gaming is conducted by tribal governments, who may use the net revenues derived from gaming only to fund tribal governmental operations or programs; provide for the general welfare of the tribe and its members; promote tribal economic development; donate to charitable organizations; and help fund operations of local government.

The regulatory framework established by IGRA for Indian gaming provides differing, but complementary, regulatory authority and responsibility to Indian tribes, the NIGC, the Secretary of the Interior, and state governments, dependent upon which of three different statutorily defined classes of tribal gaming activity is conducted. Under IGRA, Class I gaming remains under the exclusive sovereign jurisdiction of Indian tribes and is not subject to the Act's other regulatory provisions. Indian tribes also retain primary sovereign regulatory authority and responsibility for the day-to-day regulation of Class II and Class III Indian gaming operations under IGRA. However, the Act also vests the NIGC with certain independent Federal regulatory powers and responsibilities regarding the regulation of Class II and Class III gaming activity on Indian lands. In addition, IGRA also requires that Class III Indian gaming activity be conducted in conformance with a Tribal-State compact that is in effect and approved by the Secretary of the Interior. Under IGRA, such Tribal-State Compacts may include negotiated provisions for state participation in the regulation of Class III tribal gaming activity conducted on Indian lands within the state.

IGRA's statutory system of shared regulatory authority and responsibility for Indian gaming will work most effectively to further the Act's declared policies and purposes, when the three involved sovereign governmental authorities work, communicate, and cooperate with each other in a respectful government-to-government manner. Such government-to-government relationships will make it possible for all three sovereign governments to mutually resolve their issues and concerns regarding the operation and regulation of Indian gaming, and efficiently coordinate and assist each other in carrying out their respective regulatory responsibilities for Indian gaming under IGRA.

Accordingly, the NIGC deems it appropriate to issue this Government-to-Government Tribal Consultation Policy, to promote and enhance the government-to-government relationships, consultations, and mutual cooperation among Indian tribes, the NIGC, other involved Federal departments and agencies, and state and local governments, regarding the operation and regulation of Indian gaming under IGRA.

## **NIGC Policy Making Principles and Guidelines**

### *Fundamental Principles*

The NIGC will adhere to and be guided by the following fundamental principles of Federal Indian policy, when formulating and implementing Federal regulatory policies, programs, procedures, requirements, restrictions, or standards that may substantially affect or impact the operation or regulation of gaming on Indian lands by a Federally-recognized tribal government under the provisions of IGRA:

The NIGC recognizes and respects the Federally recognized sovereignty of Indian tribes, which possess and exercise inherent sovereign authority over their members and territory and have certain rights to self-government over their internal governmental affairs under Federal law.

The NIGC recognizes and is committed to maintaining a respectful and meaningful government-to-government relationship with Federally-recognized Indian tribes and their authorized governmental leaders, when exercising and discharging its regulatory authority and responsibilities for Indian gaming under IGRA.

The NIGC acknowledges that Indian tribes retain and exercise primary sovereign authority and responsibility with respect to the day-to-day operation and regulation of gaming on their tribal lands under IGRA, subject to independent Federal regulatory oversight and the conditions, restrictions, and requirements of the Act, Tribal-State Compact provisions, Federal procedures in lieu of Tribal-State compacts, and NIGC regulations promulgated pursuant to the Act.

The NIGC will honor and respect the provisions of Tribal-State Class III Gaming Compacts that are duly approved by the Secretary of the Interior and in effect, or, in the alternative, Federal Class III tribal gaming procedures approved by the Secretary of the Interior, in lieu of a Tribal-State Compact, pursuant to IGRA and Department of Interior regulations.

To the extent practicable and permitted by law, the NIGC will engage in regular, timely, and meaningful government-to-government consultation and collaboration with Federally recognized Indian tribes, when formulating and implementing NIGC administrative regulations, bulletins, or guidelines, or preparing legislative proposals or comments for Congress, which may substantially affect or impact the operation or regulation of gaming on Indian lands by tribes under the provisions of IGRA.

The NIGC will encourage Federally-recognized Indian tribes and state and local governments to consult, collaborate and work cooperatively with each other in a respectful, good faith government-to-government manner to mutually address and resolve their respective issues and concerns regarding the operation and regulation of gaming on Indian lands under IGRA, in furtherance of the policies and purposes of the Act.

The NIGC will also work cooperatively with other Federal departments and agencies and with state and local governments to enlist their interest and support to assist the Commission and Indian tribes in safeguarding tribal gaming from organized crime and other corrupting influences; providing adequate law enforcement, fire, and emergency health care services, and environmental protections for the health and safety of the public in tribal gaming facilities; and accomplishing the other goals of IGRA.

#### *Other Policy Making Principles and Guidelines*

To the extent practicable and permitted by law, the NIGC will also adhere to and be guided by the following additional principles and guidelines, when formulating and implementing Federal regulatory policies, programs, procedures, requirements, restrictions, or standards, that may substantially effect or impact the operation or regulation of gaming on Indian lands by a Federally-recognized tribal government(s) under the provisions of IGRA:

The NIGC acknowledges and will reasonably consider variations in the nature and scale of tribal gaming activity across Indian country, as well as variations in the extent and quality of tribal gaming regulation and state regulatory involvement under the different Tribal-State Compacts, when determining the need, nature, scope, and application of new or revised Federal regulatory policies, procedures, programs, requirements, restrictions, or standards for Indian gaming operations under IGRA.

The NIGC will also provide technical assistance, advice, guidance, training, and support to help Indian tribes and tribal leaders and employees understand and comply with Federal policies, regulations and standards for Indian gaming.

The NIGC will defer to tribally established regulations and standards for Indian gaming, when the Commission determines that they are permitted by IGRA and further its policies and purposes; that they adequately address congressional concerns regarding Indian gaming; that tribal compliance and enforcement are readily verifiable by the NIGC; and, that similar Federal regulations and standards are not statutorily required or necessary to implement the Act.

The NIGC will also encourage and provide technical assistance, advice, guidance, and support to Indian tribes and tribal leaders to formulate and implement their own regulatory policies, procedures, requirements, restrictions, and standards for their gaming operations, in lieu of similar Federal regulations and standards, if the

Commission determines that the proposed tribal regulations and standards are permitted by IGRA and further its policies and goals; that they will adequately address congressional concerns regarding Indian gaming; that tribal compliance and enforcement will be readily verifiable by the NIGC; and, that similar Federal regulations and standards are not statutorily required or necessary to implement the Act.

The NIGC will not formulate and implement Federal regulatory policies, procedures, programs, requirements, restrictions, or standards for Indian gaming that will impose substantial direct compliance or enforcement costs on an Indian tribe(s), if the Commission determines that such Federal regulations and standards are not required by IGRA or necessary to implement its provisions or further accomplishment of its policies and purposes.

In general, the NIGC will strive to grant Indian tribes the maximum administrative and regulatory discretion possible in operating and regulating gaming operations on Indian land under IGRA; and also strive to eliminate unnecessary and redundant Federal regulation, in order to conserve limited tribal resources, preserve the prerogatives and sovereign authority of tribes over their own internal affairs, and promote strong tribal government and self-determination, in accordance with Federal Indian policy and the goals of IGRA.

#### *Applicability*

The NIGC will be guided by the above policy-making principles and guidelines in its planning and management activities, including budget development and execution, legislative initiatives and comments, and policy and rule making processes.

#### **Tribal Consultation Procedures and Guidelines**

To the fullest extent practicable and permitted by law, the NIGC is committed to regular, timely, and meaningful government-to-government consultation with Indian tribes, whenever it undertakes the formulation and implementation of new or revised Federal regulatory policies, procedures, programs, requirements, restrictions, or standards for Indian gaming, either by means of administrative regulation or legislative initiative, which may substantially affect or impact the operation or regulation of gaming on Indian lands by a tribe(s) under IGRA.

Based on the government-to-government relationship and in recognition of the sovereignty and unique nature of each Federally-recognized Indian tribe, the primary focus of the NIGC's consultation activities will be with individual tribes and their recognized governmental leaders. Consultation with authorized intertribal organizations and representative intertribal advisory committees will be conducted in coordination with and not to the exclusion of consultation with individual tribal governments. When the NIGC determines that its formulation and implementation of new or revised Federal regulatory policies, procedures,

programs, requirements, restrictions, or standards may substantially effect or impact the operation or regulation of gaming on Indian lands by a tribe(s) under IGRA, the Commission will promptly notify the affected tribes and initiate steps to consult and collaborate directly with the tribe(s) regarding the proposed regulation and its need, formulation, implementation, and related issues and effects. Tribes may and are encouraged, however, to exercise their sovereign right to request consultation with the NIGC at any time they deem necessary.

The Chairman of the NIGC or his or her designee is the principal point of contact for consultation with Indian tribes regarding all NIGC programs and related policies and policy-making activities of the Commission under IGRA.

The NIGC will initiate consultation by providing early notification to affected tribes of the regulatory policies, procedures, programs, requirements, restrictions, and standards that it is proposing to formulate and implement, before a final agency decision is made regarding their formulation or implementation.

The NIGC will strive to provide adequate opportunity for affected tribes to interact directly with the Commission, to discuss and ask questions regarding the substance and effects of proposed Federal regulations and standards and related issues, and to provide meaningful input regarding the legality, need, nature, form, content, scope and application of such proposed regulations, including opportunity to recommend other alternative solutions or approaches. Such consultation will be conducted with tribes by means of scheduled meetings, telephone conferences, written correspondence, and other appropriate methods of communication, before a final agency decision is made regarding the formulation or implementation of the proposed Federal regulations or standards.

As part of the tribal consultation process, the NIGC will answer tribal questions and carefully consider all tribal positions and recommendations, before making its final decision to formulate and implement proposed new or revised Federal regulatory policies, procedures, programs, requirements, restrictions, or standards that may substantially affect or impact the operation or regulation of gaming on Indian lands by affected tribe(s) under IGRA.

As an independent Federal regulatory agency, the NIGC has authority and responsibilities under IGRA to conduct investigations, take enforcement actions, and render regulatory and quasi-judicial decisions regarding the approval of tribal gaming ordinances and third party management contracts, the suitability of management contractors to participate in Indian gaming, and tribal compliance with the Act. The nature of these statutory responsibilities necessarily places some limitations on the nature and type of consultation that the Commission may engage in with the involved tribes. These limitations on consultation are necessary to preserve the integrity of the NIGC's investigations, enforcement actions, and decision-making processes, and also comply with provisions of the Federal Administrative Procedures Act that limit Commission contact with parties in contested cases. Nevertheless, the NIGC will endeavor, to the extent practicable

and permitted by law, to reduce procedural impediments to consulting directly with tribal governments to resolve issues regarding the operation and regulation of Indian gaming under IGRA.

The NIGC will, to the extent necessary and appropriate, consult with affected tribes to select and establish fairly representative intertribal work groups, task forces, or advisory committees to assist the NIGC and tribes in developing administrative rules or legislative recommendations to address and resolve certain issues of regulatory concern regarding the operation and regulation of Indian gaming under IGRA.

The NIGC will, to the extent it deems practicable, appropriate, and permitted by law, explore and consider the use of consensual policy making mechanisms, including negotiated rulemaking, when formulating and implementing Federal regulatory policies, procedures, programs, requirements, restrictions, or standards that may substantially effect or impact sovereign tribal rights of self-government regarding the operation or regulation of gaming under IGRA, or related tribal resources, or tribal treaty or other rights.

### **Increasing Flexibility for Tribal Waivers of Regulatory Requirements**

The NIGC will review the provisions and processes under which Indian tribes may apply for waivers of regulatory requirements under NIGC regulations, and take whatever steps it determines appropriate and permitted by law to further streamline those processes, consistent with the policy making principles and guidelines set forth in Part II of this policy.

This Part only applies to regulatory requirements that are discretionary and subject to waiver by the NIGC.

### **General Limitations**

This policy is not intended to nor does it create any right to administrative or judicial review, or any other right, benefit, trust responsibility, or cause of action, substantive or procedural, enforceable by any party against the United States of America, its departments, agencies or instrumentalities, its officers, or employees, or any other persons or entities.

This policy is not intended to create a forum for resolution of specific disputes or issues that are the subject of litigation between the NIGC and a tribe(s) nor is it meant to replace presently existing lines of communication.